

THE PROCEEDINGS
of
The South Carolina
Historical Association
1953

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ROBERT D. OCHS
Editor



COLUMBIA
THE SOUTH CAROLINA
HISTORICAL ASSOCIATION
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THE TWENTY-THIRD ANNUAL MEETING

The twenty-third annual meeting of the South Carolina Historical Association was held at The Citadel, Charleston, South Carolina, on April 11, 1953. Granville T. Prior, President of the Association, presided.

At the morning session two papers were read and discussed: "The Presidential Election of 1928 in South Carolina" by Bernard L. Poole, College of Charleston, and "James H. Thornwell and the South Carolina College" by Daniel W. Hollis, University of South Carolina.

The business session, which was held immediately following the luncheon, heard and accepted the Treasurer's report. Officers chosen for 1953-54 were: Robert W. Barnwell, President; Jack Williams, Vice-President; Charles H. Carlisle, Secretary-Treasurer; and Mary S. Oliphant, Executive Committee Member. R. H. Wienefeld moved that a committee of one or more be appointed by the President to draw up an appropriate resolution as a memorial to Dr. A. G. Holmes of Clemson College and have the same printed in the *Proceedings* of the Association. The motion carried.

No afternoon program was scheduled in order that members of the Association might make a tour of either Magnolia, Middleton, or Cypress Gardens or visit several historic homes of Old Charleston. Members of the Association were guests of the South Carolina Historical Society at a reception at The Fireproof Building, headquarters of the Society.

At the banquet session at the Fort Sumter Hotel, Thomas B. Alexander, chairman of the Social Sciences Division, Georgia Teachers College, addressed the Association on the subject, "Historical Treatments of the Dred Scott Case."

The Executive Committee continued Robert D. Ochs as editor of the *Proceedings* of the Association.

ALESTER GARDEN HOLMES (1876-1953)

At the annual meeting in 1953, the South Carolina Historical Association, in a special resolution, noted with deep regret the passing of one of its charter members, Alester Garden Holmes.

Professor Holmes had been Professor Emeritus of History at Clemson College since his retirement, June 30, 1948. A graduate of The Citadel in the class of 1897, he was employed by Clemson as a teacher of history in 1906 after several years experience in the public schools of South Carolina. He was an active member of the South Carolina Historical Association—presiding over the organization in 1933, served many years on the South Carolina Historical Commission, and worked closely with the Clemson College Library staff in the collection and preservation of South Caroliniana. He was co-author, with George R. Sherrill, of the life of *Thomas Green Clemson*.

Professor Holmes has left a deep and abiding influence on his many students and on those who were associated with him on the Clemson College faculty. His gentleness, his sense of justice and his exacting code of ethics made him a distinct and lovable character.

THE PRESIDENTIAL ELECTION OF 1928 IN SOUTH CAROLINA

BERNARD L. POOLE

I

Perhaps the most startling aspect of the presidential election of 1928 was the temporary break up of the Solid South.¹ Hitherto, the southern states had shown no relation to national political trends and their chief characteristic had been stolid immobility in loyalty to the Democratic party. Now, four states had deserted the ranks and cast majorities for the "black" Republicans.² Why, after so many years of staunch devotion to one party, had defection appeared in the South? Certainly, the answer is not to be found in the siren call of Republican prosperity, for the same issue of prosperity had failed to come close to garnering Calvin Coolidge a single electoral vote in the Solid South in 1924.³ It seems clear that only factors of singular uniqueness could have caused such a violent break with tradition. These factors were to be found in the prohibition problem and the religious issue.⁴

Considering the past solidarity of the whole area, the question naturally arises as to why these two issues failed to sway the electorate of the six loyal states to the extent that their influence was felt in the four defaulting states. Immediately following the election, the *New York World* shrewdly placed its editorial finger upon the very core of the situation in the South by pointing to the large negro population of the loyal states. To a much greater extent than in the four recalcitrant states, negroes formed a large portion of the total population: South Carolina, 50 per cent; Mississippi, 52 per cent; Georgia, 41 per cent; Louisiana, 39 per cent; Alabama, 39 per cent; Arkansas, 27 per cent. What was left of the Solid South, then,

¹The Solid South is generally construed to include ten states: Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Texas, and Virginia. The term is used to exclude the six border states where many characteristics of the North are in evidence: Kentucky, Maryland, Missouri, Oklahoma, Tennessee, and West Virginia. Harold R. Penniman, *Sait's American Parties and Elections* (New York: Appleton-Century-Croft, Inc., 1948), 32.

²Harold F. Gosnell, *Grass Roots Politics. National Voting Behaviour of Typical States* (Washington: American Council on Public Affairs, 1942), 17.

³New York World, *World Almanac and Book of Facts*, (1930), 916.

⁴Julian Harris, Georgia correspondent of the *New York Times*, June 22, 1930, sec. 3, p. 1E.

"was not voting against the Eighteenth Amendment on Tuesday—it was voting against the Fifteenth".⁵ These states were confident that the provisions of the latter would never be enforced against the white supremacy southern wings of a Democratic administration in Washington. But, no matter who occupied the White House, the threat of large blocs of potential negro votes was effectively suppressed by the unyielding solidarity of state party. The situation, at home, was firmly kept under control through unanimity of action on the part of white citizens who represented the overwhelming majority of registered voters.

The most regular of the Democratic states of the Solid South, in every national election since the end of Reconstruction, was South Carolina; and 1928 was no exception.⁶ It supplied Governor Smith with his most decisive victory giving him 62,700 popular votes against 5,898 for Hoover.⁷ But despite the decisiveness of the Democratic victory and the comparatively small total of votes for Hoover, the results reflect, to some extent, the influences of the same factors which swayed the electorate in the four disloyal states. In 1924, for example, when Coolidge received only 1,123 popular votes, the Democratic percentage of the total number of ballots cast was 96.6 per cent. Governor Smith's percentage amounted to only 91.4 per cent while in 1932, the Democratic percentage rose sharply to reach 98 per cent.⁸ It is clear, that while the Democratic organization in South Carolina had nothing to fear from the Republican challenge, 1928 could hardly be termed a normal election year.

There was undoubtedly much sentiment for the preservation of prohibition in South Carolina and certain clergymen attempted to make the alcohol problem the primary issue. Bishop James Cannon, Jr., led the dry crusade in the South and, on November 2, 1928, spoke at Charleston under the auspices

⁵Charleston, *News and Courier*, November 10, 1928 citing *New York World*.

⁶Louis H. Bean, *How to Predict Elections* (New York: Alfred A. Knopf, 1948), 89.

⁷Bureau of Census, Department of Commerce, *Vote Cast in Presidential and Congressional Elections, 1928-1944* (Washington: Government Printing Office, 1946), p. 9. Although Mr. Hoover received a total of 5,858 votes, only 3,188 were credited to the Republican ticket. 2,670 Anti-Smith Democrats cast ballots which were purely votes of repudiation of the individual and not the party. These cannot be construed as expressions of preference for Hoover much less for the Republican party. Simon Michelet, "An Analysis of the Vote in the National Election", *Current History* XXIX (October, 1928-March, 1929), 784.

⁸In 1932, the total of 104,407 was divided as follows: Democratic, 102,347; Republican, 1,978; others, 82. Bureau of Census, *op. cit.*, 9.

of the Anti-Smith Democratic Legion of South Carolina. He stressed the menace of Governor Smith's dripping wet views and declared that "through the efforts of the women and the ministers, the country has been aroused to throw off whiskey, and brand men who formerly had been respectable liquor dealers as bootleggers—criminals." He referred to the South's political leaders as "the most pathetic figures in history".⁹

It is doubtful, however, that the liquor question was as potent in building up opposition to Governor Smith as was the religious issue. As the *Greenville News* pointed out, it was difficult to understand how the Democratic voter could fear the attitude of the national party's candidate, as far as South Carolina was concerned since "about the most extreme step contemplated under Smith's ideas would be legal permission for the sale of some light beverage like beer in states that were willing to permit it, like New York".¹⁰

In evaluating the relative influence of anti-Catholic sentiment compared to the prohibition issue, the observer can do no more than draw his own conclusions. In many instances, the two issues were so inextricably confused to the mind of the voter that he was probably unaware that religious prejudice was an element involved in his choice of a candidate. Editorial opinion in South Carolina, however, placed much more importance upon anti-Catholicism as a determining factor which was, according to the *Greenville News*, "really the ground of opposition which the Republicans have to capitalize on in the South".¹¹

It would be a serious error to assume that there was no genuine preference for Governor Smith on his merits. The distinguished record of the Democratic candidate as a public servant could not have failed to impress many fair minded citizens in all sections of the state. In general, the press seemed to render proper recognition to his qualifications for high office characterizing the Governor as "a straight thinking, frank speaking man whose heart is with the people of the country".¹²

⁹Charleston *News and Courier*, November 6, 1928, November 3, 1928.

¹⁰Greenville *News*, August 6, 1928.

¹¹*Ibid.* Patrick Henry Callahan believed that the organizations of Catholic laymen formed in the southern states after World War I was responsible, to some extent, for the loyalty of Georgia and contiguous states to the Democratic ticket. He felt that the results of the election would create a greater respect for Catholics in the South, because of their commendable attitude during the campaign. Patrick Henry Callahan, "Religious Prejudice in the Election," *Current History*, XXIX (October 1, 1928-March, 1929), 381-383.

¹²Columbia *State*, October 1, 1928.

Editorial opinion reflected sentiment in favor of tolerance, and the danger of religious prejudice was clearly not overlooked. The *Charleston News and Courier* warned that the "policies of religious prescription might destroy the republic. With Smith or Hoover president the republic will be safe".¹³ It must also be noted that no religious organization formally extended approval to either candidate.¹⁴ The reputable section of the press in South Carolina joined in condemning intolerance and repeatedly referred to the vicious nature of the attacks upon the Democratic nominee for no other reason than his church affiliations.¹⁵

It cannot be denied that there was some genuine Democratic sentiment based upon attachment to the principles of Jefferson.¹⁶ When such controversial issues as prohibition and religion entered the picture, it was not difficult to overlook the basic fundamentals of political convictions. But numerous good citizens cast their ballots for the Democratic nominee for no other reason than that they believed sincerely in the principles for which the party stood.¹⁷ Such individuals were not easily persuaded by prejudice to desert the political rock to which they had clung for years on end. Undoubtedly, the ballots of this portion of the electorate were a factor in preventing Mr. Hoover from making more than a slight dent in the huge Democratic majority.

But, regardless of the sentiment of the voter, the rigid control exercised by the state Democratic organization rendered honorable party defection impossible. This control of the majority vote was made possible by the famous Rule 32 of the Democratic party of South Carolina which required the voter in the Democratic party primary to pledge himself to support the nominees, *national* as well as state even though presi-

¹³*Charleston News and Courier*, October 1, 1928.

¹⁴*Ibid.*, October 4, 1928.

¹⁵The *Charleston News and Courier* saw no danger from a Roman Catholic in the White House: "Albeit that in the parliaments of European countries, Germany, for example, Roman Catholic parties or 'blocs' are active, no tendency in that direction has been noticed in America. The American Catholics divide, they are Republicans or Democrats." *Charleston News and Courier*, October 4, 1928.

¹⁶*Columbia State*, October 1, 1928.

¹⁷"All in the South who are today giving aid and comfort to the Republican ticket by fighting the Democratic ticket are striking at the very existence of the national Democratic party as a factor in government. They are playing with live coals in a powder magazine." *Columbia State*, October 2, 1928.

dential electors were not chosen in the primary.¹⁸ Since the Republican party in South Carolina was associated with the negro vote in the minds of the white population, the number of registered voters in its organization was negligible. Therefore, the Democratic primary was the only contest of any significance because the vast majority of the registered voters were Democrats. Those who participated in the primary were bound by oath to support Smith. In the general balloting, therefore, very few of the eligible voters could have honorably supported Hoover, no matter what their personal preferences might have been. Since a Democratic victory was always a certainty, it was customary for only a fraction of the eligible voters to appear at general elections. Only 62,700 Democrats, of some 155,000 who voted in the state primary, cast their ballots for the New York governor. Certainly, many Democrats who objected to Smith were included in the large number of absentees.¹⁹

The true potency of issues of prohibition and religion, in the final analysis, will never be known because in many cases their influence at the ballot box was effectively blocked at the polls by the party itself. Once the state Democratic organization had accepted the national party candidate, Hoover had no real chance of making any appreciable inroad in a huge majority for Governor Smith. And the South Carolina party machine, as well as the press throughout the state, placed itself solidly behind the national ticket. In this respect South Carolina followed the example of every state of the Solid South:

Virtually every outstanding Democratic political leader in the South is actively urging support of the national tickets on the part of southern Democrats. Nearly every newspaper in the South that had been Democratic heretofore is very actively so now, with some few, and not important exceptions. The "bolt movement", such as it is, is being led almost entirely by certain Protestant bishops and preachers.²⁰

In the four states which repudiated the Democratic candidate at the polls, the voters, by this very act, repudiated the state organization also. It was true that in Virginia, the Byrd machine actively supported the unpopular Smith while dis-

¹⁸Charleston News and Courier, May 17, 1928. The part of the pledge applying to the presidential nominee was repealed in 1938. David Duncan Wallace, *South Carolina: A Short History, 1520-1948* (Chapel Hill: The University of North Carolina Press, 1951), 678.

¹⁹Charleston News and Courier, November 8, 1928.

²⁰Greenville News, August 6, 1928.

creetly approving the decision of the majority to renounce him on election day.²¹ But on the record, the voters of these four states repudiated the organizations, and the primary cause of these revolts must be attributed to the force of religious prejudice and prohibition sentiment. It is clear that this force was stronger than the control of the state Democratic parties.²² Were not the same influences at work in South Carolina as in the states which bolted? It has already been indicated that they undoubtedly were. Why then were these factors so much less effective in the Palmetto State? The answer lies in almost absolute political control by the Democratic party organization. And behind this power, is found the factor which reached into the very heart of the political situation—the race problem.

II

In 1928, the population of South Carolina was about equally divided between white and negro. Since the end of Reconstruction "if there was one thing that South Carolina feared more than bad negro government, it was good negro government".²³ The national election marked the revival of the negro as an issue, curiously enough, because it was coupled with the attack on Governor Smith's religion, on the one hand, and the specter of a divided white electorate, on the other. The anti-Smith faction pictured the Democratic candidate as a friend of the negro as well as an agent of the Pope. Photographs of Ferdinand Q. Morton, negro civil service commissioner in New York, with his white secretary were widely circulated in the South.²⁴ That the association of the character of Governor Smith with the negro question was effective in South Carolina is highly doubtful. It was probably responsible for only an infinitesimal portion of the 8.6 per cent of the total vote gather-

²¹Francis Butler Simkins, *The South Old and New. A History 1820-1947* (New York: Alfred A. Knopf, 1947), 455.

²²Mr. Hoover, like many other Republicans, made the mistake of believing that the election results indicated a permanent break-up of the Solid South. But by the time of the Congressional elections of 1930, all four recalcitrant states were safely back in the Democratic fold. Henry Lee Moon, *Balance of Power: The Negro Vote* (New York: Doubleday and Co., 1948), 108-109. In South Carolina, Coleman L. Blease, idol of the poor white Democrats, was defeated in the senatorial primaries as a Hoovercrat. Paul Lewinson, *Race, Class and Party* (New York: Oxford University Press, 1932), 167.

²³W. E. B. Du Bois, cited by Henry Lee Moon *op. cit.*, 65.

²⁴*Ibid.*, 106.

ed by Mr. Hoover.²⁵ There is no doubt however, that the 91.4 per cent cast for Governor Smith was primarily due to the association of the principle of white supremacy and the Democratic party of South Carolina.

The negro had long been effectively prevented from exercising the franchise. The constitution of 1895 had established residential and poll tax requirements and after January 1, 1898, registrants were required to read and write any section of the constitution, or show proof that they had paid taxes on property worth at least \$300. Besides this most of the disqualifying crimes were those most likely to be committed by negroes.²⁶ It is true that these provisions applied to whites as well as negroes, but since the literacy test was administered by registration officials, the stringency with which it was applied could be varied according to the color of the prospective registrant.²⁷ Such restrictions and tactics very effectively eliminated all but a handful of negroes from the registration lists.²⁸ Even if the negro survived the complications leading to the registration booth, his vote was little more than an empty gesture since he was barred from the Democratic primary, the sole approach to office.²⁹ The general election was simply a confirmation of the decision made by the Democratic primary.³⁰ As long as party rules could fix the qualifications of the members, the registered negro voter had to ratify the selections of a primary election in which he had no part or express futile dissent by supporting any Republican candidate who might be named. The Republican party did not hold a primary since the membership included only a very small

²⁵There was undoubtedly some undercover bidding by Hoovercrats, Republicans, and loyal Democrats for negro votes. Lewinson states that in Columbia, visits were paid negroes by Klansmen on behalf of Hoover. Paul Lewinson, *op. cit.*, 158, 272, note 62.

²⁶Francis Butler Simkins, *op. cit.*, 266.

²⁷William Pickens, "The Woman Voter Hits the Color Line", *Nation*, CXI (July-December, 1920), 373.

²⁸Frank R. Kent, *The Great Game of Politics* (New York: Doubleday, Doran and Co., 1933), 344. Kent enumerates the reasons for negro disenfranchisement as follows: The white primary; poll tax; educational qualifications; selfishness of white Republican leaders; habit of not voting; futility of voting. *Ibid.*, 340. For summary of suffrage qualifications, registration procedure, primary regulations, and election procedure in South Carolina, see Lewinson, *op. cit.*, 263-238.

²⁹In 1920 there were 6,587 literate negroes over 21 years of age in Columbia. Up to 1930, the number of registered negro voters varied from 175 to 800. Charleston with 14,149 in the same classification showed registration figures of only 500 to 700. Lewinson, *op. cit.*, 219.

³⁰"White government is maintained in South Carolina, not by the constitution suffrage limitations enacted in 1895, as is commonly supposed, but by the white man's primary." *Charleston News and Courier*, November 8, 1928.

number of registered voters and the party would have been required to bear the expenses of an election. A skeleton organization, which did not exclude negroes, nominated presidential electors, sent delegates to the Republican national convention, and dispensed federal patronage. Under such conditions, the feeble Republican party in South Carolina, only refuge of a handful of registered negro voters, could offer but token resistance to the white Democratic machine.³¹

Mr. Hoover could not hope, therefore, to obtain a majority by means of the negro vote. The only method by which the Republicans could have carried the state was the defection of slightly less than one half of the registered voters. This is the basic reason why the potent influences of religious prejudice and prohibition sentiment represented no more than a feeble threat to the Democratic majority. For such defection would have involved two factors of vital importance: repudiation of the white man's party in favor of the "black" Republican candidate; and violation of the oath required by Rule 32. Very few Democrats could bring themselves to desert the party under such circumstances.

The Anti-Smith Legion of South Carolina distributed 125,000 ballots which offered a kind of compromise with conscience for Democrats who objected to Smith. The 2,670 voters who cast their votes on this ticket thus avoided the onus of supporting the Republican party.³² If any dissatisfied Democrat was numbered among the 47 who voted for Socialist Norman Thomas, he must have realized that his ballot would be of no significance whatever.³³ Once the electors pledged to Smith had been chosen by the state Democratic organization, all opposition was doomed because South Carolina was a one party state; and individual candidates, state and national, were always subordinate to the interests of that party—the white man's party.³⁴ This was freely admitted in the press

³¹Howard R. Penniman, *Sait's American Parties and Elections* (New York: Appleton-Century-Crofts, Inc., 1948), 52-57.

³²Columbia State, November 6, 1928.

³³Simon Michelet, "An Analysis of the Vote in the National Election", *Current History* XXIX (October, 1928-March, 1929), 784. The Anti-Smith Legion was organized in a convention held in Columbia in September 1928. Two Republicans were included among its nominees for presidential electors. Hampton Smith of Greenville was president of this organization and E. J. Hisey, of Charleston, was its Secretary. The original name of the group was "Hoover Democrats" often referred to as "Hoovercrats". *Charleston News and Courier*, September 29, 1928.

³⁴The South Carolina delegation to the Democratic national convention in Houston had opposed the nomination of Smith, but the primary in August pledged Democratic voters to the national party nominee. *Charleston News and Courier*, November 8, 1928.

which was supporting the Democratic party's champion and not necessarily the individual.³⁵ A vote for Mr. Hoover involved support of a threat to white supremacy. The *Charleston News and Courier* expressed this in terms which anyone could clearly understand:

The principal differences between the two parties in respect to the negro vote is that the Republicans insist upon the right of negroes to vote in the South and the Northern Democrats now, as always, are insistent that the Southern white people be left unmolested in control of the affairs of their states.

Never with a Democrat in the White House does or will the danger of the appointment of negroes to office in the South arise.³⁶

Many voters resented the application of Rule 32, even if they had no thought of violating it.³⁷ But the press actively supported the pledge as the formal expression of an obligation already existing:

Active participation in the selective processes of a party machinery makes one an active supporter of that party and in itself carries an obligation to give his support to the program and candidates of his party. The formally expressed pledge to do so is simply an acknowledgment of an obligation that already existed and which was not created by mere rule.³⁸

This was all very well in theory, but it did not alter the fact that an implied obligation, in the minds of the voters, was a matter entirely different from a solemn oath. That this facet of human nature was realized was evident in a certain uneasiness which appeared to be present in some editorials, even those stoutly defending the pledge and roundly denouncing support of the Republican party. There was a feeling that the state Democratic party should not necessarily be forced to support the national ticket when a large portion of the Democratic voters objected to the presidential candidate. The *Greenville News* half-heartedly offered a solution while, at the same time, withholding its approval. An editorial suggested the selection of nine electors of the "independent" kind in whose hands the Democratic voters could leave the choice of presi-

³⁵*Columbia State*, October 1, 1928.

³⁶*Ibid.*, November 5, 1928.

³⁷*Ibid.*, November 8, 1928.

³⁸*Greenville News*, August 4, 1928.

dential candidates. Presumably, these electors would cast their ballots in the electoral college solely in the interests of the state party.³⁹

The *Charleston News and Courier* worked out a more elaborate plan which would create a kind of two party system within the state Democratic organization. In the 1928 election, this scheme would have operated as follows: The state primary would have been held in April instead of August, *before* the national nominating conventions. Voters in the primary would have had the choice between two sets of electors—one pledged to prohibition and one pledged to revision of the Volstead Act. All Democratic voters would have been pledged to the victors so that "had this been the arrangement, South Carolina might have voted for Hoover, without impairment of the integrity of the white racial party".⁴⁰ The *News and Courier* made no secret of the avowed purpose of such an arrangement:

The plan is an extension of the present white primary system, so that the white people would have full opportunity to express themselves in the national politics. In principle, the Democratic party in South Carolina is racial before it is political. The solidarity of the white party would be in that way protected and preserved,

We can have two parties within the unbroken, solid white party, in South Carolina if we want to have them, in that way completely disposing of the troublesome negro question.⁴¹

The author of the above could not have been more explicit in defining the basic aim of political activity in South Carolina. Nor could he have more aptly indicated the clue to the proper analysis of the election of 1928 in South Carolina. The 8.6 per cent of the total vote cast for Hoover was indicative of the force of passing sentiment and prejudice. But the 91.4 per cent credited to Smith represented the very core of the political situation. The average voter, regardless of his personal preference in the matter of the candidate, supported the state Democratic party because this organization was the bulwark of white supremacy in South Carolina. The state party supported the national ticket because a Democratic ad-

³⁹*Ibid.*, August 2, 1928.

⁴⁰*Charleston News and Courier*, November 8, 1928.

⁴¹*Ibid.*, November 9, 1928.

ministration in Washington seemed to be a guarantee of non-interference from Washington in the "lily-white" state party's strict control of the political situation.

Let him who doubts this reflect upon what occurred in South Carolina in 1948. Why did not the Democratic voters of that year support Harry Truman? Because the state party repudiated him. Why did not the state organization support both candidate and national party as in 1928? Because a victory for the Democratic candidate meant a distinct threat to white party control and hence to white supremacy in South Carolina; and the voters followed the state party, even under a different party label, for this very reason. In both 1928 and 1948, the determining factor—the race issue—was the same although the results of the two elections were exactly the opposite.

The vote for Smith and the vote for Thurmond were fundamentally expressions of support of white supremacy. In 1952, however, the 158,312 votes cast for the Republican candidate by South Carolinians for Eisenhower reflected support for a candidacy based upon Americanism and the welfare of the whole nation. Many Democrats broke with the party because of the character of General Eisenhower, a figure of world importance, who made a much greater appeal to Southerners than Dewey had in 1948. The large scale renunciation of the party's candidate was no mere protest vote. It had long been gathering and was rooted deep in issues which appeared to many to transcend sectional interests—the Korean War, inflation, corruption in high places, and disillusion which came after long years of the New Deal and Fair Deal.⁴²

Certainly, to some extent, regional interests influenced South Carolinians in 1952 as they had in 1928, but as John Temple Graves expressed it:

In 1928 the issue was more or less the man, Al Smith, his religion, his liquor views, his Tammany Hall background.

Nothing could be more indicative that the tide of 1952 is deep and full than the soundlessness of it. There was no sound of hateful religious antagonism this time. There was no noisy liquor debate. There was even comparatively little of the loudest question of all—race relations.⁴³

⁴²John Temple Graves, "Real Christmas Angels", *Charleston News and Courier*, December 23, 1952.

⁴³John Temple Graves, "1928 and 1952 Contrasted", *Charleston News and Courier*, December 4, 1952.

In 1928, however, the ultimate aim of political activity in South Carolina was white supremacy through state party solidarity. Mr. Hoover, therefore, in spite of prohibition sentiment and anti-Catholicism, could achieve no more than a slight reduction of the traditional Democratic majority.

JAMES H. THORNWELL AND THE SOUTH CAROLINA
COLLEGE

DANIEL WALKER HOLLIS

The sixth president of South Carolina College was born in the Marlborough district on December 9, 1812, the son of a plantation overseer, who died when the boy was only eight. The family was left in straightened circumstances, but fortunately, the youth's scholastic achievements in the neighborhood log school house attracted the attention of W. H. Robbins and General James Gillespie, two prominent citizens of Cheraw. Young Thornwell was taken to Cheraw, boarded in Robbin's home, and sent to Cheraw Academy.¹ In 1829 his patrons sent him to South Carolina College, and he arrived in Columbia in December to take the entrance examinations for the junior class.

He had proved to be a brilliant scholar at Cheraw Academy, and South Carolina College boys from the Pee Dee section informed their classmates that soon a genius would arrive who would carry away all the academic honors. As is so frequently the case, the widely heralded newcomer met with initial disaster. Although the applicant favorably impressed the kindly president, Thomas Cooper, Thornwell found the other professors to be so "extremely rigid" in their demands that he failed to give a satisfactory performance in mathematics and Greek. Humiliated by his failure, he went into seclusion for three weeks, studied for hours each day on his deficient subjects, was re-examined in January, and passed with ease.²

Once admitted into the college he lost no time in measuring up to the boasts of his Pee Dee friends. He quickly took and held first academic rank in a class of forty-three. Thornwell joined the Euphradian Society, one of the two college forensic clubs, and here also took first place. His first speech in the Euphradian hall was made before a skeptical audience. "Well," thought one of his classmates, upon seeing this unimposing specimen for the first time in the hall, "you cannot say much until you will have to sit down."³ Much to the surprise of the Euphradian audience, the neophyte delivered such an excellent discourse that the impressed society elected him monthly orator. He was soon recognized as the best speaker in the so-

¹John Miller Wells, *Southern Presbyterian Worthies* (Richmond: 1936), 13-14.

²B. M. Palmer, *The Life and Letters of James Henley Thornwell* (Richmond: 1875), 53-56.

³*Ibid.*, 65.

ciety, became president in 1831 and served as Euphradian valedictory orator at commencement exercises in December of that year.⁴

He was an assiduous student, who pored over his books for as many as fourteen hours a day. He used the library as had perhaps no student before him, devouring the works of Milton, Horace, Virgil, Jonathan Edwards, Swift, and Hume. Robert Henry, professor of metaphysics and logic, exercised more influence on the young scholar than any other member of the faculty. Thornwell was introduced to Henry's brand of metaphysics, which was based on "Scottish common sense realism," and included a Calvinistic concept of world and man. Henry also stimulated the student's interest in the classics, and in later years Thornwell was quick to acknowledge his indebtedness to Henry's classical taste and attainments.⁵

Initially, Thornwell was greatly impressed, as were almost all South Carolina College students, with President Cooper, but by the time he had become a senior he had moved away from the influence of the mercurial president. Politically, Thornwell was a Unionist in 1831 and, though he was not a member of a church, he had developed Calvinistic religious inclinations. He rejected Deism, Socinianism, and materialism, doctrines which were expounded on the campus by Thomas Cooper. In 1831, when his classmates attempted to lend aid to the president, who was then under heavy attack, by drawing up resolutions vindicating Cooper and endorsing his presidency of the college, Thornwell opposed the movement with such an effective speech that the resolutions were withdrawn.⁶

In 1833, after more than a decade of acrimonious controversy, the aged but volatile Thomas Cooper relinquished the presidency of South Carolina College. In 1831-1832 his outraged religious and political foes joined forces to compel a legislative investigation of his college administration. Although the board of trustees, dominated by such prominent nullifiers as Robert Y. Hayne, William Harper, and Henry L. Pinckney, completely exonerated him in the ensuing investigation, his defeated antagonists, especially the Presbyterians, regarded his acquittal as being nothing more than a white-wash. They continued to assail Cooper and the college, which, in 1833, began to suffer from their attacks, and the enrollment

⁴Euphradian Minutes, January 23, April 7, 1830; January 8, May 28, 1831 (MS, South Caroliniana Library, University of South Carolina).

⁵Paul L. Garber, *James Henley Thornwell, Presbyterian Defender of the Old South* (Richmond: 1943), 2, 12-13; Palmer, *op. cit.*, 61.

⁶*Ibid.*, 82.

declined to less than one-third of what it had been. In the face of such discouraging conditions, Cooper and his friends on the board of trustees agreed that the second president should gracefully resign, rather than cling to his position and be forced to make an ungainly exit at some later date. The old gladiator hated to leave the arena. "The fanatics have succeeded at last in getting rid of me from the Presidency of the College," he wrote his friend, Congressman Warren R. Davis. Cooper fully realized that the core of his opposition was the Presbyterian Church, and he must have been seething inwardly at the state of affairs he predicted would come about: "... I feel somewhat melancholy at this College being degraded into a sectarian, Presbyterian institution, in which the Boy will learn nothing that the man ought not to forget."

In 1835, when the trustees set about reorganizing the then languishing institution, they were very much concerned with erasing the marks Cooper had left upon the college, and in quieting the charges of infidelity that were still being hurled from many quarters. They created a new professorship, that of sacred literature and evidences of Christianity, the occupant of which performed regular religious services in the chapel; and they elected a new president, Robert Woodward Barnwell, a Harvard alumnus, young Beaufort attorney, and a former member of Congress.*

The college immediately began to prosper, attracted many students, obtained new buildings, enjoyed liberal support from the legislature, and largely recaptured the confidence and esteem of the people of South Carolina. The trustees were anxious to continue this encouraging progress, and in 1837 went even further in their efforts to eliminate memories of Thomas Cooper by bringing Thornwell, who by this time was a young Presbyterian pastor of the Lancaster district, to Columbia to be professor of belles lettres and logic.^a This chair had been occupied by the popular, aimiable Henry J. Nott, until his tragic death by drowning in the summer of 1837. Nott, the only professor retained from the old Cooper regime, had been regarded with suspicion in many religious circles. One critic denounced him for being deistical and heretical in his teachings, and declared it would be better for young South

*Thomas Cooper to Warren R. Davis, January 3, 1834 (MS, Thomas Cooper Papers, South Caroliniana Library).

^aMinutes of the Board of Trustees of the South Carolina College, June 4, 5, December 3, 15, 1835 (MS, Treasurer's Office, University of South Carolina, hereinafter cited as trustees' minutes).

^aTrustees' Minutes, December 6, 1837.

Carolínians to go to Harvard and Yale to be "Contaminated by Yankee atmosphere" than to expose them to his influence.¹⁰

It was to eliminate such criticism that Nott's young successor was brought to the campus. Thornwell was only twenty-four years of age when made a professor, but his youth had not prevented him from establishing a reputation for orthodoxy, learning and effective preaching that attracted the attention of the college trustees, and, although they had no way of knowing it at the time, in obtaining Thornwell, they were acquiring the services of a man who was to become the most distinguished Presbyterian in the South. It is ironical that one of Thomas Cooper's own students was to be instrumental in largely bringing about that state of affairs at South Carolina College that Cooper, in an attitude of melancholy, had predicted to Warren R. Davis. Thornwell's fundamentalist biographer exulted at this whimsical turn of fate. "Who can understand the ways of God?" he asked, in rejoicing that, even while Cooper was serving as president, his "infidel philosophy" was "feathering an arrow by which its own life should be pierced."¹¹ For indeed, Thornwell became the most important individual at South Carolina College. From 1837 to 1862 (with two brief interruptions) he served as professor, president and trustee of the institution. Although the national fame and high prestige of the ante bellum South Carolina College rests largely upon the presence there of Thomas Cooper, Francis Lieber, and the LeConte brothers, Thornwell, in South Carolina affairs, towered above these other figures, and in college matters his influence became predominant. As an educational philosopher he shaped and controlled the curriculum, and in the 1850's, while president and trustee, he blocked efforts to convert the college into a university. His presence on the campus did much to eliminate and counteract criticism from religious quarters, and he became the most effective disciplinarian on the faculty. To the South Carolina College creed of states' rights (Cooper's lasting contribution), Thornwell added religious orthodoxy, opposition to reform, pro-slavery apologetics, and a generally conservative social philosophy. He became president in 1851, and thus, in less than twenty years after Cooper's departure, the college had evolved from the control of a Deist to that of a militant Calvinist.

¹⁰*The Mysteries of Government or Favoritism Unveiled, a Newyear's Present to the People of South Carolina by the Spy in Columbia* (n. p.: [1835]), passim.

¹¹Palmer, *op. cit.*, 146.

After graduating with first honor in 1831, Thornwell remained on the campus for a few months as a resident graduate, hoping to engage in further study and to obtain some income from tutoring prospective candidates for admission to the college. This occupation netted little revenue, and, refusing to accept further subsidy from his generous patrons, he went to Sumterville in the spring of 1832 to engage in private teaching. While in Sumterville he contributed a series of articles to the Unionist Columbia *Free Press and Hive* and followed the stormy nullification controversy with much interest. Of more importance was his conversion to the Presbyterian Church, which he joined in May, 1832. While at South Carolina College Thornwell had read and become greatly impressed by a small volume entitled *Confession of Faith*, which contained the Westminster Confession. His action in 1832 was merely a formal confirmation of beliefs already formed.¹²

He remained in Sumterville for a few months before returning to Cheraw, where he taught in the Cheraw Academy in 1833 and 1834. In the summer of 1834 he went to Andover Theological Seminary in Massachusetts to study languages, but was disappointed to find that Andover did not offer the quality of work he desired. He also discovered that Andover's theology was too much of the "New School" variety to suit his own particular "Old School" taste, and after a few weeks he moved to nearby Harvard, to study languages there. While at Cambridge he roomed in Divinity Hall with the Unitarian theological students, a situation not to his liking. "I look upon the tenets of modern Unitarianism," wrote this young Calvinist, "as little better than downright infidelity."¹³ He was unimpressed with Harvard University, and complained of the "mongrel Dialect" of Harvard graduation orators, which he described as being "neither Latin, Greek, nor English."¹⁴ Repelled alike by the mental outlook and the climate of New England, he left in the fall of 1834.

Upon returning to South Carolina, he began preaching in the Lancaster district. His success as a minister along with his reputation as a scholar and salutorian of the class of 1831, caused the college trustees to offer him a professorship in January, 1838. His influence was immediately felt. A loyal member of the Euphradian Society, he was constantly in demand to serve as a guest orator, and, along with William C.

¹²*Ibid.*, 80, 83-95.

¹³*Ibid.*, 117.

¹⁴*Ibid.*, 120.

Preston and James H. Hammond, was considered to be one of the most noted alumni Euphradians. In a sparkling address to a joint meeting of the Clariosophic and Euphradian Societies, the twenty-six year old professor outlined his social and philosophical views—opinions he was to propound in classroom, pulpit, press and church assembly for decades to come.

This address was made about three years after Ralph Waldo Emerson, the high priest of the New England transcendentalists, had issued his slender first volume, *Nature*, with its pantheistic overtones.¹⁵ Thornwell's 1839 address to the young South Carolinians is noteworthy not only because the opinions he expressed were almost the antithesis of everything the transcendentalists represented, but also because this speech indicates that his philosophy had almost fully matured.

The preposterous stuff which is deluging Germany under the name of Transcendentalism, France under that of Eclecticism and is creeping into these United States under the lying title of Psychology, is not metaphysics—it is the product of those distempered visions excited in the brain by breathing too freely the maddening vapor set forth from the boiling alembic of hell, to befool, infatuate and (dazzle) the erring sons of man.¹⁶

Kant and his fellow philosophers, Thornwell added, were "only the miserable tools in the hand of the fiend of darkness for consummating his black designs of malace and hate upon our wretched race."¹⁷ He denounced any philosophy based upon "the false assumption of the absolute sufficiency of human reason for the discovery of truth." To Thornwell, man was no noble creature, and he called for the study of "true metaphysics," which would show that man, as any good Calvinist could see, was "blind, ignorant, and erring."¹⁸

Thornwell's conservative social philosophy caused him to oppose reform movements, and the unionist views he held at an early age had changed by 1850. By this date he had come to accept the doctrine of secession, though he was not a radical where this issue was concerned. In viewing the conflict between the abolitionists and reformers of the North and the defenders of the stable social order of the South he issued a ringing commentary:

¹⁵Ralph L. Rusk, *The Life of Ralph Waldo Emerson* (New York: 1949), 240, 265.

¹⁶James H. Thornwell, Address Before the Clariosophic and Euphradian Societies, December 3, 1839 (MS, Thornwell Papers, South Caroliniana Library).

¹⁷*Ibid.*

¹⁸*Ibid.*

The parties in this conflict are not merely abolitionists and slave-holders—they are atheists, socialists, communists, red republicans, jacobins on the one side, and the friends of order and regulated freedom on the other. In one word, the world is the battle ground—Christianity and atheism the combatants; and the progress of humanity the stake.¹⁰

He looked upon the South Carolina College as an instrument with which to defend a regulated social order. Thornwell's faculty colleague, Francis Lieber, attempted to interest the young Calvinist in several social reforms, such as prison improvement, care of the insane, and public school education, but for the most part, such efforts were fruitless. Thornwell did not believe either church or college should be proponents of social reform, and he instilled in the young men the idea that they should not attempt to improve upon the state of society in a world that God had seen fit to create. In another address to the Clariosophic and Euphradian Societies, delivered in 1856, he spoke with feeling and pride of the college as being "something stable in the midst of change." "... those who are meditating an invasion upon the existing arrangements of the State," he added, "feel the necessity of first removing the great mediator and reconciler in this institution. While the college stands there is a perpetual pledge of peace and the preservation of the established order."²⁰

The trustees were fully aware of the great asset they possessed in this young man. The type of evangelical religion of which he was such an outstanding representative, had by the 1840's, become dominant in the State. Between 1830 and 1860 membership in the Baptist and Methodist Churches more than doubled, and the Presbyterians also gained. This era also witnessed the dissolving of the easy tolerance of the early nineteenth century. In such an atmosphere it became increasingly important that the college be "safe," religiously speaking, and in time, many came to believe that his services were indispensable to the institution. During the two decades Thornwell was on the faculty he was torn between conflicting loyalties to the church and to the college. Thornwell was never fully satisfied with the chair of metaphysics, logic and rhetoric, and resigned in 1839 to accept the pastorate of the First Presbyterian

¹⁰Quoted in Wilbur J. Cash, *The Mind of the South* (New York: 1941), 80.

²⁰James H. Thornwell, Semi-Centennial Address Delivered Before the Societies of the South Carolina College, December 1856 (MS, Thornwell Papers, South Caroliniana Library, University of South Carolina).

Church of Columbia. President Barnwell and Chancellor David Johnson of the board of trustees attempted to persuade the young professor to remain, even going so far as to promise to change the old rule that no professor could at the same time serve as a regular minister of a Columbia church, but their efforts were to no avail.²¹

In 1840 Thornwell served as pastor of the First Church in Columbia, but in the fall of the year, when Stephen Elliott resigned the professorship of sacred literature and evidences of Christianity to become Episcopal Bishop of Georgia, the trustees, led by Christopher G. Memminger, persuaded Thornwell to accept the vacant position.²² This chair, which carried with it the duties of college chaplain, was much more appealing to Thornwell, both from the standpoint of subjects to be taught, and because it afforded him an opportunity to preach. He would also be in an even better position to "eradicate the poison of President Cooper's infidelity."²³ Within a few years, however, he had again become dissatisfied with his position in the college. Robert Henry, his old friend and teacher, had proved to be an inept college president, and Thornwell furthermore felt that somehow he was not getting proper support in his position as chaplain. Thus, when, in 1845, a call came from the Second Presbyterian Church of Baltimore, Thornwell resigned his professorship to accept the offer. This time the trustees refused to let him go immediately and, led by Robert W. Barnwell, invoked the almost obsolete rule that all such resignations must be given on a year's notice.²⁴

Meanwhile developments in the college administration caused Thornwell to withdraw his resignation. In December, 1845, Henry was removed from the presidency, and William C. Preston, who had resigned his position as United States Senator, was placed at the head of the college. The new president appealed to the meeting of the Presbytery in Charleston in the spring of 1846. "We cannot afford," said Preston to an important member of the Presbytery, "to lose Dr. Thornwell from the college. In the first place he is the representative of the Presbyterian Church, which embraces the bone and sinew of the State, without whose support the institution cannot exist. In the second place, he has acquired that moral influence over the students, which is superior even to law; and his re-

²¹Trustees' Minutes, May 8, 1839.

²²*Ibid.*, November 26, 1840.

²³Wells, *op. cit.*, 21.

²⁴Trustees' Minutes, November 28, 1845.

moval will take away the very buttresses on which the administration of the College rests."²⁵ The Presbytery passed resolutions requesting Thornwell to remain at the college, and the professor, highly pleased that Preston had become president, withdrew his resignation.²⁶

The fact that the trustees considered Thornwell to be almost indispensable to the welfare of the college indicates, to some extent, the increasing influence of the Upcountry in South Carolina affairs. The Piedmont, to be sure, had absorbed (partially through the influence of the college) the political doctrines of the Lowcountry, but it had not accepted its religion. Instead, the great evangelical denominations, especially the Baptists and Methodists, had become predominant in the Piedmont. These churches had great respect for the Presbyterian religion as expounded by Thornwell, and were quite content to see his influence at the college continued. But the ascendancy of the young Presbyterian in college affairs was not looked upon as an unmixed blessing in some circles of the Episcopal Church, and the Episcopalians, who had remained silent through the stormy days of the Cooper controversy, raised objections in the 1840's when Professor Thornwell became perhaps too energetic and effective in performing his duties as chaplain. The charge was made that the State college was being made into what was in effect a sectarian institution, under the control of the Presbyterians. "I know the Chaplain of the college well," wrote one prominent Episcopalian in the *Columbia Daily Telegraph*, "and I know of *no man* under whose influence I should place a man with more reluctance."²⁷ The Bishop of the Diocese of South Carolina became so concerned with the situation at the college that he brought the matter before a convention of the church in 1850.²⁸ No action was taken at the time, however, and the resignation by Thornwell of his professorship in May, 1851, apparently ended the agitation.

Despite the success of the Preston administration, the professor had again become restless, and in 1850 he was acutely dissatisfied with academic life. In a whimsical moment he dreamed of turning to agricultural pursuits on his Lancaster County farm, "Dryburgh Abbey." But this was never more than a dream: "There is no chance of reaping twenty-five

²⁵Palmer, *op. cit.*, 281.

²⁶*Ibid.*, 284.

²⁷"Clairemont," in the *Columbia Daily Telegraph*, May 6, 1850.

²⁸*Ibid.*, May 23, 25, June 1, 12, 15, September 13, 1850.

hundred dollars from these red hills,"²⁰ he wrote. (This sum represented the salary of a South Carolina College professor.) His dissatisfaction, and his eternal desire to be a regular minister at some church, led to the submission of this third resignation of his professorship, and in May, 1851, he accepted the call of the Glebe Street Presbyterian Church in Charleston. Before the end of the year, however, the ailing Preston had resigned the presidency of the college, and the trustees and almost the entire state immediately called upon Thornwell to be his successor. The Charleston *Mercury* confidently predicated his election, and on December 4, Rhett's journal happily announced that the Presbyterian minister had been elected.²¹

His term as president was a brief one, lasting only four years, but the college continued on the high plateau of prosperity it had reached under Preston. The Preston-Thornwell era, lasting from 1846-1855, saw the institution enjoy its palmiest days. Yet, as has been all too frequently demonstrated in the one hundred and fifty year history of the University of South Carolina, its presidency is one of the most difficult positions in the State, and the demands it imposes have sometimes proved to be too great a task for those who have undertaken it. Thornwell's abilities were taxed to the utmost. Although he was the most effective disciplinarian in the history of the college, his administration was marred by the "Great Biscuit Rebellion." In 1852 the ever-active campus lawyers made a grand effort to abolish the compulsory mess hall system. Thornwell and the authorities were already considering such a step when the impetuous students took the precipitate action of presenting the trustees with an ultimatum. This challenge left the authorities with no alternative—past experience had proved the folly of yielding to such student combinations—and Governor John L. Manning and the trustees refused to budge. Despite Thornwell's appeals to the students, the stubborn young men also refused to yield, and 108 of them were either suspended or left the college.²²

Another perennial disciplinary problem lay in the relations of the students to the slaves, who served as campus janitors. Thornwell reported to the board of trustees that there were times when the young men became infuriated at the slothful-

²⁰Palmer, *op. cit.*, 341.

²¹Charleston *Mercury*, December 4, 1851.

²²Trustees Minutes, November 24, 26, 1852; Columbia *Daily South Carolinian*, December 18, 1852.

ness and idleness of some of the servants, and were inclined to inflict chastisements which were "anything but judicious." Thornwell constantly reminded his charges of the duties, as well as the rights, of masters, and tried to enforce the rule that students could strike servants only for insolence; mere idleness and inattention were to be reported to the college bur-sar.²²

That appealing stubborn students, who violated college rules, was an unwise policy was strikingly demonstrated by one particular incident, which also, in the end, illustrated Thornwell's effectiveness as a disciplinarian. In 1854, two students, John C. McClenaghan of Marion and John Taylor Rhett of Richland almost engaged in a duel. The college rules made even the sending and accepting of a challenge an automatic cause for expulsion, but Thornwell, for reasons he considered to be of great importance, urged the trustees to make an exception in this case. Rhett's mother, he said, was a very worthy widow, sending her son to college at a great sacrifice, while McClenaghan was the son of a pious Methodist clergyman, who had been reluctant to permit his son to come to South Carolina College in the first place. The father would, said the president, look upon the grievous error of his son as but the "natural result of the associations into which he was thrown in the walls of South Carolina College." Were the son to be expelled, this influential Methodist would be permanently prejudiced against the institution.²³

The trustees heeded Thornwell's advice, and the boys were not expelled. This leniency was soon to be regretted, for in February, 1856, McClenaghan and Rhett (a future mayor of Columbia) were the prime instigators of the famous guard house riot, which was the most serious student outbreak in the ante bellum era. This unfortunate affair took place about six weeks after Thornwell had relinquished the office of president, and was precipitated by a series of incidents on the campus and in Columbia that finally divided town and gown into hostile groups, with blood-shed a very likely possibility. "The scene thus presented was such as Columbia never before saw, and which I hope, she never again will see," wrote John Belton O'Neill to Benjamin F. Perry. "Two hundred armed citizens, with guns loaded with ball catridges, opposed to more than a hundred enraged young men, with rifles in their

²²Trustees' Minutes, May 5, 1852.

²³*Ibid.*, May 3, 1854.

hands."³⁴ Thornwell's successor, Charles F. McCay, was helpless. The distracted president and prominent citizens demanded that the students return to the campus, but all was to no avail until someone had the presence of mind to summon Thornwell from the seminary. The former president raced from his lecture to the scene of conflict, moved quickly among the students, assured them that he would investigate the situation, and, if he found that they were in the right, and that no other means of redress were possible other than by fighting, that he would lead them himself. He then marched toward the campus shouting the old rallying cry of "College! College!" and was followed by the entire assembly of students. Probably no one else in the state could have done it.

Of more importance than his interesting career as a disciplinarian was his influence as a philosopher of education, and his role as a policy maker in developing the curriculum of the college. There was never a more avowed champion of classicism than Thornwell, and it was largely because of his influence that the institution remained a citadel of classical learning and that it did not develop into a university in the ante bellum period.

Proposals to modify the curriculum of the college, and to establish chairs of agriculture, engineering, modern languages, law, and other such subjects had been made long before Thornwell arrived on the scene. Thomas Cooper suggested in 1829 that the college become a university, but nothing came of his proposals.³⁵ A more serious move in this direction came at the time when the college was being reorganized, in the mid 1830's. Governor George McDuffie, in his message to the legislature in 1836, recommended professorships of engineering and modern languages, and President Barnwell endorsed these proposals in his reports to the board of trustees. The State Agricultural Society also urged the trustees to establish a chair of agriculture.³⁶

These suggestions were destined to get nowhere. The very month of 1837 that Thornwell was made a professor, a trustees committee, headed by Chancellor William Harper, announced its disapproval of such projects. Harper's report is important, for it outlined a policy to be embraced by Thornwell, and to which the institution tenaciously clung until Ben-

³⁴Charleston *Daily Courier*, March 5, 1856.

³⁵*Ibid.*, 85-86.

³⁶See McDuffie's message in the *Greenville Mountaineer*, December 10, 1836; Trustees' Minutes, November 30, 1836, December 7, 1837.

jamin F. Perry and James L. Orr remodeled it into a university in 1865. "... the object of College education," Harper informed his fellow trustees, "is not to advance the student in any particular profession, but to give him that liberal knowledge of general intelligence which is equally valuable in every profession."³⁷ The chancellor acquired a powerful ally in Thornwell. In 1839, at a time when the Agricultural Society was urging that agriculture be taught at the college, Thornwell, in his address to the Euphradian and Clariosophic Societies, denounced those who were, as he phrased it, trying to invent a "royal road to education." It is quite a mistake, he said, "to suppose that the end or object of liberal education is to supply us with the practical knowledge which shall fit us to enter at once upon the practical business of life." In our efforts to simplify knowledge, he added, "we have advanced much nearer towards making men children than towards making children men."³⁸

After Harper's death in 1847, Thornwell replaced the chancellor as chief defender of the classical faith. In his Semi-Centennial Address before the two college societies in 1856, the great Presbyterian praised Harper's "enlightened and liberal opinions" on the subject, and added:

... as long as he was able to occupy his seat at the councils of the Board of Trustees, there was no danger that liberal learning would be sacrificed to the ... utilitarian crudities of politicians. His simple contempt for visionary schemes availed more than a thousand arguments, and that cause was always hopeless which Harper despised.³⁹

Thornwell proved to be as effective as the chancellor in opposing "utilitarian crudities" and "visionary schemes" in college councils. In 1854, while he was president, Thornwell, in a report to the trustees vehemently opposed any change:

... while others are veering to the popular pressure and introducing changes and innovations which are destructible of the very nature of liberal education—let it be our glory to abide by the old land-marks—improving where improvement is desirable—but substituting nothing. Let it be our aim to make *Scholars*, and not sappers or miners—apothecaries—doctors or farmers.⁴⁰

³⁷*Ibid.*

³⁸Thornwell, Address Before the Clariosophic and Euphradian Societies, 1839.

³⁹James H. Thornwell, Semi-Centennial Address Before the Clariosophic and Euphradian Societies, December, 1856 (MS, Thornwell Papers, South Caroliniana Library).

⁴⁰Trustees Minutes, November 29, 1854.

He was instrumental in having the Latin and Greek requirement considerably increased. He complained to the trustees in 1850 that the standards were too low, and shortly thereafter the trustees increased the Greek entrance requirement to six books of Homer, and in 1853 raised it to ten books of Homer's *Iliad* and six books of Xenophon's *Anabasis*. This appears to have been the highest such requirement of any college in the United States, and Thornwell admitted to the trustees that such high standards had "produced a perfect panic in the up-country schools—the idea of being compelled to read so much Greek fills them with absolute horror."⁴¹

Although such developments were highly pleasing to the college academicians, others began to complain. "Teacher" writing in the *Daily South Carolinian*, felt that poor boys could not find an education at the college they could use, and demanded that the classics should not "keep guard at the portals" of the state-supported institution, since underprivileged youth could not afford to spend years in learning enough Latin and Greek to gain admittance.⁴² In Greenville, Benjamin F. Perry, a trustee, urged, in the *Patriot and Mountainer*, that electives be introduced, and that poor boys be permitted to choose practical subjects rather than be compelled to study Latin and Greek.⁴³ And the *Winnsboro Register* took a decidedly hostile view of the entire Harper-Thornwell thesis:

The idea that colleges and schools are intended simply for mental training, and that this can only be obtained by a four years curriculum of Latin, Greek, Metaphysics, etc., is tending everyday to obsolescence and will soon be ranked among the exploded theories of medieval scholasticism.⁴⁴

The *Register* strongly advocated turning the college into a university modeled on the University of Virginia, and William C. Preston introduced resolutions at a meeting of the board of trustees in 1857 to reorganize the institution along university lines.⁴⁵ Preston received considerable support from Benjamin F. Perry, and to further the movement, induced Professor Henry Harisse of the University of North Carolina to submit extended suggestions for revision of higher education in South Carolina. Preston had Harisse's essay on this subject published in pamphlet form, and widely distributed. Harisse, who re-

⁴¹*Ibid.*, May 4, 1853.

⁴²Columbia *Daily South Carolinian*, November 29, 1855.

⁴³Quoted in *ibid.*, September 9, 1856.

⁴⁴Quoted in *ibid.*, June 17, 1857.

⁴⁵Trustees Minutes, June 11, 1857.

ceived a master's degree from South Carolina College in 1853 (the only such degree, apparently, that was earned at the institution before the Civil War) criticized the "stereotyped curriculum" that prevailed there and at other colleges and suggested several changes.⁴⁶

All this, however, did not prevail against Thornwell, and the Preston proposals were dropped in the fall of 1857. But the high Greek requirement had met with so much opposition that it was decided to lower it to some extent. Judge T. W. Glover, of the Board of Trustees, complained that South Carolina College required three times as much Greek as Harvard, Yale, or Princeton, and nearly two times as much as Columbia, and in 1857 the requirement was reduced.⁴⁷

In 1853 Thornwell contributed a document of paramount importance in the history of higher education in the South; his celebrated letter to Governor Manning on public instruction in South Carolina. This lengthy treatise was prompted by his concern with efforts being made to change the college into a university, and by the mushroom-like growth of denominational colleges in South Carolina in the 1850's. Much of the document contained a reaffirmation of his belief in classical education. The design of the South Carolina College, he informed the governor, "is to cultivate the mind without reference to ulterior pursuits." He was against the introduction of elective subjects because the students would choose those they believed to be the easiest. The only questions they would ask would be, "Is it easy, is it short?"⁴⁸

Turning to the problem of church or state support for higher education, the president was very much worried about the threat that the new denominational colleges posed for the historic state college. For three decades or more after its opening in 1805, the institution possessed a virtual monopoly in dispensing higher education in South Carolina. True, the College of Charleston had a charter dating back to 1785, but for decades it had been little more than an academy. By 1840, however, it had evolved into a real liberal arts college. The South Carolina Military Academy, founded in 1842, stemmed from the desire to furnish technical and military training not

⁴⁶Edgar W. Knight, ed., "Harris's Essay on Higher Education for South Carolina," *University of North Carolina Extension Bulletin*, Vol. XXVI (March, 1947).

⁴⁷Trustees Minutes, December 4, 1856, May 6, 1857.

⁴⁸*Dr. J. H. Thornwell's Letter to Governor Manning on Public Instruction in South Carolina*, (Charleston: 1885), 7, 11.

offered at Columbia.⁴⁹ Neither of these Charleston institutions caused much concern at the college in Columbia, but the educational development of the 1850's was an entirely different matter. In the 1830's Davidson, Wake Forest and Trinity colleges had been founded in North Carolina, and Oglethorpe, Mercer, and Emory in Georgia. Perhaps because South Carolina was smaller and less populous, and its state college stronger, the denominational college movement did not come for several more years. The first of such institutions in South Carolina was Erskine College, founded in the 1830's by the Associated Reformed Presbyterian Church. Its application for a charter, in 1839, was blocked for some time by the friends of the state college.⁵⁰ By the 1850's the Baptists, Methodists, and Lutherans had joined the A. R. P.'s in establishing church colleges. To many of these evangelical Christians, South Carolina College was still suspect, and Thomas Cooper's ghost had at least some part in the founding of Erskine, Wofford, Newberry, and Furman, which were chartered and opened between 1850 and 1858.

Thus, while Thornwell was president of South Carolina College, all the major protestant denominations in the state had, with two notable exceptions, founded or were taking steps to found, colleges of their own. The Episcopalians were planning the University of the South in Tennessee and contemplated establishing no college in South Carolina, and the Presbyterians, perhaps satisfied with the control which they, through Thornwell exercised over the South Carolina College, did not found a college in the State until after the Civil War. Thornwell's letter to Governor Manning was in defense of state support of higher education, and an answer to critics of the state college. It was circulated at the time and proved to be so effective that in 1885, when denominational attacks upon South Carolina College were stronger and more vehement, and its outlook much darker, Trustees James H. Rion and Charles Simonton had five thousand copies of Thornwell's letter printed and distributed.

The Presbyterian president refuted all the old charges against the college; that it was a rich man's school, that the many were taxed to benefit the wealthy few who attended it,

⁴⁹J. Harold Easterby, *A History of the College of Charleston* (Charleston: 1935), chap. v; Colyer Meriwether, *History of Higher Education in South Carolina with a Sketch of the Free School System* (Washington: 1889), 69-70.

⁵⁰Daniel W. Hollis, *South Carolina College*, Vol. I of *University of South Carolina* (2 vols.; Columbia, 1951—), 172-173.

and that the college had not been worth the expense of maintaining it. Education, he asserted, "trails downward," and pointed to the host of distinguished men educated within the college walls. He believed the college to be of more value than the public schools. "If we must dispense with one or the other," he wrote, "I have no hesitation in saying that on the score of public good alone it were wiser to dispense with the schools. One sun is better than a thousand stars."⁵¹ He denied that it was antagonistic to the interests of the people: "It has made South Carolina what she is; it has made her people what they are"⁵²

In answer to attacks upon the institution as a center of irreligion, he replied that the college had godly teachers, and his contention was well sustained not only by his own presence on the faculty, but by that of Henry, Elliott, Hooper, Reynolds, and others. If state colleges could become centers of irreligion, said Thornwell, church colleges could easily degenerate into "hotbeds of vilest heresy and infidelity." The presence of too many colleges would cause strenuous competition for patronage, which would depress educational standards and cause the institutions to offer curricula that were ostentatious and attractive rather than solid and substantial. Thornwell also feared that church colleges might increase the existing amount of sectarian rivalry.⁵³

The severe strain of duties as college president heavily taxed Thornwell's weak physical constitution, and he became weary of the position. "The labors here are not labors of instruction only," he reported to the trustees, "but of routine and drudgery." The sense of constant responsibility oppressed him, and caused sleepless nights spent "in a perpetual feeling of uneasiness." It had been long felt by his fellow theologians that far too many of his talents were being wasted on matters of police and administrative detail, and it was decided in 1854 to place him in a chair at the Columbia Theological Seminary, where he could devote his time to writing and teaching. He submitted his resignation in 1854, but the trustees, again invoking the rule requiring a year's notice, retained him as president until December, 1855.⁵⁴ He was shortly thereafter made a trustee, and served in this capacity until his death.

The retiring president played a considerable role in the

⁵¹Thornwell, *Letter to Governor Manning*, 27.

⁵²*Ibid.*

⁵³*Ibid.*, 31, 34.

⁵⁴Trustees Minutes, November 29, 1854.

selection of his successor. He and Governor James H. Adams were instrumental in blocking the election of Francis Lieber to the presidency in December, 1855. Lieber had joined the faculty in 1835, had served as a colleague of Thornwell for more than fifteen years, and was, in 1855, the senior professor (aside from the aged Robert Henry, who was about to retire). On the surface, at least, Thornwell and Lieber maintained pleasant relations, but the two men did not care for each other, and their opinions on such matters as slavery, religion, secession, philosophy, and reform were poles apart. Despite his increasing fame as a scholar, and the fact that nationally he was the most renowned man on the campus, this German political scientist had not been happy in South Carolina. He disliked all that Thornwell represented, but had been forced to maintain in public a tight-lipped silence on such controversial issues as slavery and religion. In Lieber's eyes Thornwell was a fundamentalistic "theological fine brand," who was a "nineteenth century Jonathan Edwards." In a letter to a friend, the German professor commented acidly on one of Thornwell's sermons:

I went to the chapel, heard a furibund sermon of our president's and feel sorry that after many months going to another church I ventured once more within the pale of bitter, biting, acrid, scratching, tearing, grating, grinding, harrowing, infaming Hyper-Calvinism, that seems to forget that Saviour means healer and religion ought to be balm, hope and confiding love. For my soul Christ's religion centers most in that sublimest and purest of all that exists in words—the sermon on the mount.⁵⁵

It must have been galling to the German, who had been under attack for twenty years as a professor, and on occasion in real jeopardy of his position, to watch the trustees make every concession to keep Thornwell, and to almost force the presidency upon him in 1851. For Lieber, despite his dissatisfaction with South Carolina, was very ambitious to become president himself, and for a time in 1855 it appeared that he would be the choice of the trustees. But Thornwell was well aware of Lieber's position on many crucial issues, and he and Governor Adams, a pro-slavery extremist, succeeded in placing Professor Charles F. McCay in the office, over Lieber. The furious German resigned his professorship, and he and his friend, trustee James L. Petigru, attributed his defeat to Lie-

⁵⁵Quoted in Hollis, *op. cit.*, 187.

ber's unionist activity, "Bitter Calvinism," and suspicion of abolitionism."⁵⁶

Thornwell died in 1862, after playing a not inconsiderable role in the events of 1860-1861 in South Carolina. Upon the occasion of his death in 1862, Theodore Tilton, an unfriendly Northern critic, referred to him as the "hot-gospeller that rose in the capital to inaugurate the revolution with public prayer." He also charged that Thornwell has spent thirty years in devoting his great gifts to "finding excuses for an institution that violates the most sacred rights human nature—turning manhood into merchandise."⁵⁷ Tilton, of course, is no fair critic, but nevertheless, it is true that much of Thornwell's great ability was poured into a negative approach to society. He is remembered to a large extent by what he was against rather than by what he was for. If the ante bellum South Carolina mind were, as David D. Wallace has written, "a foetus in a bottle," certainly Thornwell shares, to some extent, the responsibility.⁵⁸ For twenty years, under his direct influence, students emerged from the college as champions of the status quo in South Carolina.

A great pillar of strength to South Carolina College, he may have unwittingly performed for it a disservice, for had it become a university in the 1850's, at a time when ample funds were available for such development, and when it was the pride of the state, the position of the institution could well have become so strong that it might have avoided some of the disasters of the period 1865-1905, when it attempted to become a university without the necessary funds, and in the face of public apathy and even arrant hostility. Although his educational philosophy appeared to be hopelessly out of date in 1905, and even in 1925, when the elective system of Charles Eliott and the pragmatism of John Dewey held full sway in American education, at the mid point of the twentieth century certainly Mortimer Adler, Robert M. Hutchins, and other educators would enthusiastically endorse the opinions expressed in the letter to Governor Manning.

Thornwell, like the State he exemplified so well, espoused a social and political philosophy destined to meet defeat in the Civil War. Had he lived in New England and become a cham-

⁵⁶*Ibid.*, 191.

⁵⁷Theodore Tilton, "The Second Son of South Carolina," *The Independent* (September 1, 1862), 71.

⁵⁸See the stimulating review of Wallace's *History of South Carolina* by Francis B. Simkins in *The Journal of Southern History*, XVIII (November, 1952), 526-528.

pion of the philosophies of the section that triumphed in 1865, his great abilities might well have given him a place in intellectual history beside that of Emerson, Parker, Channing, and others. Nevertheless, as a South Carolinian, he was, as one exacting student has said, an exceedingly able "Presbyterian Defender of the Old South."⁵⁰

⁵⁰Garber, *op. cit.*

HISTORICAL TREATMENTS OF THE DRED SCOTT CASE

THOMAS B. ALEXANDER

The opinions of the United States Supreme Court in the case of *Dred Scott vs. Sanford*, read on March 6 and 7, 1857, catapulted the court into the most hotly contested zone of the currently raging sectional controversy—that pertaining to the status of slavery in the territories. Stephen A. Douglas had shattered the apparent calm following the Compromise of 1850 when his Kansas-Nebraska bill substituted popular sovereignty in those territories for the previously existing prohibition of slavery under the terms of the Missouri Compromise. And, while Kansas bled profusely in the anti-slavery press, the Republican party emerged and made a major presidential bid in 1856. James Buchanan was elected, however; and he considered his victory a mandate to quiet sectional strife. The retiring president, Franklin Pierce, lectured Congress on the correctness of the Douglas popular sovereignty ideas incorporated in the Kansas-Nebraska Act and declared the Missouri Compromise exclusion of slavery in that territory to have been unconstitutional in the first place. Buchanan, in his inaugural, then concurred in defending popular sovereignty as against the Missouri Compromise settlement. Only one question remained, he said, that of the exact time when the people of a territory might accept or reject slavery by the exercise of their sovereignty; and that question, Buchanan announced, was about to be answered by a Supreme Court decision. As for his own opinion, the decision should not be made until a constitution was drafted preparatory to statehood. Two days after the inauguration, the Supreme Court held the Missouri Compromise unconstitutional, denied the power of Congress to prohibit slavery in a territory, and thus protected slavery in the territories until statehood. This court action demolished the cornerstone of the new Republican party—Congressional exclusion of slavery from all territories.

Republican leadership exploded. Horace Greeley's *New York Tribune* announced that the decision was entitled to just so much moral weight as would be the judgment "of a majority of those congregated in any Washington bar-room."¹ One "higher law" advocate issued the terse injunction: obey this decision and you disobey God. William H. Seward, hopeful of a Republican presidential nomination in 1860, charged in a

¹Albert J. Beveridge, *Abraham Lincoln, 1809-1858* VI (Boston, 1928), 125.

Senate speech that the whole case was a slavocracy conspiracy in which the President and the Chief Justice were personally implicated. "On the 5th of March," said Seward, "the judges, without even exchanging their silken robes for courtiers' gowns, paid their salutations to the President in the Executive Palace. Doubtless the President received them as graciously as Charles I did the judges who had, at his instance, subverted the statutes of English liberty."² Chief Justice Roger B. Taney was so incensed that he later said he would not have administered the oath of office to Seward had he been elected president in 1860. Yet, Taney did administer the oath to Lincoln; and Lincoln had said of the Dred Scott Case: "When we see a lot of framed timbers, different portions of which have been gotten out at different times and places and by different workmen—Stephen, Franklin, Roger, and James, for instance—and we see these timbers joined together . . . in such a case we find it impossible not to believe that Stephen and Franklin and Roger and James all understood one another from the beginning"³

Most Republican spokesmen maintained that when Taney declared that the circuit court had been in error in assuming jurisdiction he should have stopped there, and that his further pronouncements on the unconstitutionality of the Missouri Compromise were *obiter dicta* (incidental opinions not material to the decision of the case and therefore not binding).

The essential facts in this case begin with Dred Scott, a slave of Peter Blow of St. Louis.⁴ After Blow's death Dred was sold to Dr. John Emerson, who took Dred into the free state of Illinois and into territory presumably made free from slavery by the Missouri Compromise. Dred voluntarily followed Emerson back to Missouri; and, when Dr. Emerson died, Dred and his family were left as a part of the estate provided for Mrs. Emerson's use for her lifetime and thereafter for Dr. Emerson's daughter, Henrietta. Mrs. Emerson's brother, John Sanford, was named in the will as one of the executors. Dred, at this point, offered to buy his freedom; but Mrs. Emerson refused for reasons not known. Therefore, since other Negroes had won freedom because of residence in free territory, Dred's case was brought into court. Why his first attorney undertook the case is not known. After the case was in the

²Vincent C. Hopkins, *Dred Scott's Case* (New York, 1951), 167.

³*Ibid.*, 172.

⁴It will appear from the body of the paper what the source of each of the essential elements of the case has been.

courts, assistance was provided by various members of the family of Peter Blow (Dred's former master).

After two trials in the Missouri state court the Scott family was declared free; but Mrs. Emerson appealed the case to the Missouri Supreme Court, which reversed its own precedents and denied freedom to Dred and his family. Had the case been appealed directly from the state supreme court to the United States Supreme Court, a clear precedent existed in *Strader vs. Graham* that the federal court would simply hold the state court's ruling final. But another way now presented itself. The former Mrs. Emerson had moved to Massachusetts and there married an anti-slavery politician, Dr. Calvin C. Chaffee. This remarriage cost her the control of her first husband's estate, because under Missouri law a married woman could not administer an estate for a minor, and the estate was in trust for Henrietta. John Sanford, as a surviving original executor of Dr. Emerson's will, became the administrator of Henrietta's estate, which included Dred.

A new case was therefore begun in *federal* circuit court, alleging that the plaintiff and defendant were citizens of different states—Dred of Missouri and Sanford of New York. Sanford denied that the federal circuit court had jurisdiction on the grounds that Dred was not a citizen and could not sue in federal court. Sanford's plea in abatement to the jurisdiction of the court argued that Dred Scott could not be a citizen because he was "a negro of African descent, whose ancestors were of pure African blood, and who were brought into this country and sold as slaves." Dred's attorneys admitted the facts of this allegation but denied that they precluded the possibility that Dred was a citizen, and the circuit judge ruled for Dred and assumed jurisdiction in the case. Counsel for defendant, Sanford, accepted this ruling and entered into a defense of the case on its merits. The decision was against Dred, whose counsel appealed to the United States Supreme Court.

In February of 1856, election year, the case of *Dred Scott vs. Sanford* was first argued before the Supreme Court. Chief Justice Roger B. Taney was from Maryland; four of the associate justices were from free states—John McLean of Ohio, Samuel Nelson of New York, Robert C. Grier of Pennsylvania, and Benjamin R. Curtis of Massachusetts; and four associate justices were from slave states—James M. Wayne of Georgia, John Catron of Tennessee, Peter V. Daniel of Virginia, and John A. Campbell of Alabama. Opposing attorneys brought a wide variety of arguments on both the question of the juris-

diction of the lower court (involving the question of Negro citizenship) and the merits of Dred's claim to freedom (involving the constitutionality of the Missouri Compromise which had allegedly excluded slavery from the territory into which Dred had been taken).

In April of 1856 the court began consultations and an equal division developed as to whether the question of jurisdiction of the lower court was up for review by the Supreme Court. The division stood four to four with no sectional pattern, and with Nelson uncertain. On Nelson's motion a reargument of the case was ordered for the end of the year. This postponement until after the election of 1856 frustrated those who were supporting Justice McLean for the Republican presidential nomination, because they had expected a ringing anti-slavery opinion that could be used as a campaign document in the Republican National Convention. This disappointment led some to speculate that the delay was a deliberate southern move to head off McLean's campaigning from the bench.

Reargument came in December, 1856, but no consultations were held until February, 1857. President-elect Buchanan was drafting his inaugural address and grew concerned lest his statements clash with the court. He therefore wrote directly to his old friend, Associate Justice Catron, asking whether the case would be decided before March 4. Catron replied that no consideration had yet been given the case but that he considered Buchanan entitled to an answer and would endeavor to get one. A few days later Catron again wrote Buchanan that the case would be decided on February 15 but would settle nothing concerning congressional power in the territories such as had been exercised in the Missouri Compromise. On February 14 the case was discussed and a majority agreed the decision would have to be based upon the merits of the case and could rest upon the precedent, *Strader vs. Graham*, which made each state the final judge of the status of slaves who had sojourned in free territory and returned. The circuit court decision was to be upheld on the grounds that it had properly considered itself bound by the ruling of the Missouri Supreme Court on Dred's status. Nelson was assigned to write this opinion, avoiding both the trouble-some points of Negro citizenship and constitutionality of the Missouri Compromise. However, this agreement was not sustained, and on February 19 Catron again wrote Buchanan to inform him that two dissenters had forced the majority to take up the constitutionality of the Missouri Compromise. Catron then reported that Buchanan's

fellow Pennsylvanian, Justice Grier, was convinced that the Compromise was unconstitutional but might not say so in his opinion. Catron suggested that Buchanan might write Grier urging him to join the majority openly and give as much weight as possible to the decision. Buchanan did write Grier, who showed the letter to Wayne of Georgia and to Taney and then replied that he would join the majority. Grier verified Catron's comment that the two dissenters, McLean and Curtis, had insisted upon giving their opinions on the controversial points and had thereby driven the majority to face the questions or let the anti-slavery arguments go unanswered. So, said Grier, on the motion of Wayne, the majority reconsidered and directed Taney to write an opinion covering all points in the case.

On March 3 Buchanan arrived in Washington and inserted in his prepared inaugural address the reference to the Supreme Court decision that would soon settle the question of the proper time for the people of a territory to decide on the matter of slavery. Two days later the case was publicly decided.

Taney read the majority opinion in which he held that the circuit court did not have jurisdiction because a Negro could not be a citizen of the United States competent to sue in federal court. Then, commenting that some members of the court doubted that the question of jurisdiction of the lower court on the Negro issue was properly before the Supreme Court for review, he argued that there was another reason for denying that the lower court had jurisdiction—Dred was a slave and hence not a citizen of the United States. Since Dred admitted being born a slave, said Taney, he could not be a citizen unless it could be shown that he had been freed. To determine whether Dred had ever been freed, Taney examined Dred's claim to freedom based upon residence in free territory and a free state. Residence in the Minnesota territory, supposedly made free by the Missouri Compromise Taney rejected on the grounds that Congress had no power to prohibit slavery in a territory (rendering the Missouri Compromise unconstitutional). As to Dred's residence in Illinois, Taney held that his return to Missouri established his status as being whatever the Missouri courts decreed. Therefore, he had never been freed from slavery, and so could not be a citizen competent to sue in federal court. Wayne concurred fully with Taney. Campbell, Catron, Daniel, and Grier agreed with Taney that Dred was not free and that the Mis-

souri Compromise was unconstitutional, but each wrote a separate opinion and disagreed on various points. Nelson read the opinion he had originally prepared as the majority opinion, declaring Dred still a slave without touching Negro citizenship or the Missouri Compromise. McLean and Curtis dissented at length, considering Dred free and declaring that Negroes could be citizens and that the Missouri Compromise was constitutional because Congress did have power to ban slavery from the territories. These several elaborate opinions are very difficult to analyze and have provided the basis for countless legalistic disputes. Six justices concurred that the Missouri Compromise was unconstitutional; less than a majority held that Negroes could not be citizens.

Shortly after the decision, John Sanford having died, control of Dred reverted to the former Mrs. Emerson and her husband, Dr. Chaffee, who transferred title to the Dred Scott family to Taylor Blow (the son of Dred's former owner) who immediately emancipated the Scotts.

Contemporary accounts of the case were generally deeply partisan, and the Civil War and Reconstruction years produced little dispassionate interpretation. This historiography begins with 1889 when the first of the nationalist school, Hermann von Holst, published his account of the case. Von Holst, James Schouler, James Ford Rhodes, and John W. Burgess, together with John Fish who did not treat this period of United States History, are spoken of by Michael Kraus in *A History of American History* as donning the judicial robe, "and despite prior professions of impartiality, they passed sentence, with varying degrees of moderation, upon the offending South." "These prosecuting historians," continues Kraus, "worshipping that new deity, the national state, and believing in the essential immorality of slaveholding, indicted the South on two counts—as the assailant of nationality and as the defender of a decadent civilization."⁵

Von Holst considered it the historian's right to measure men and events according to his own political and moral beliefs. Jefferson "was always ready to sacrifice much of his favorite theories to his feverish thirst for power and distinction."⁶ John Brown was a man of "homely realism" and "great, ideal loftiness of soul."⁷ The election of Buchanan enabled the "strictly conservative" Republican party, built upon "ethico-religious

⁵Michael Kraus, *A History of American History* (New York, 1937), 337.

⁶*Ibid.*, 341.

⁷*Ibid.*, 347.

convictions" to maintain its "defensive" character.* The Dred Scott case was a sweepingly aggressive move of the Democrats—acting through the courts. The Supreme Court had been packed for years by the slavocracy, von Holst maintains; and the decision, he holds, "would remain . . . the greatest political atrocity of which a court had ever been guilty, even if the reasoning of . . . Taney . . . were as unassailable and convincing, historically and constitutionally, as it was, in fact, wrong, sophistical and illogical."

Von Holst knew almost nothing of the facts of the case before it reached the Supreme Court. Nelson is correctly credited with asking for a second argument of the case, but Wayne of Georgia is blamed for the decision to touch Negro citizenship and the Missouri Compromise, with no mention of Curtis and McLean. Von Holst calls it an incontrovertible fact that Wayne and the court majority were "prompted by purely political considerations," but he dismisses as untrue charges that the justices were influenced by outsiders. Taney's opinion beyond declaring the circuit court to have no jurisdiction is dismissed as *obiter dicta* and not constitutional law. The chapter concludes that, of its own free will, the Supreme Court had taken the initiative for the radical southern wing of the Democratic party.

Schouler's presentation of the case appeared in 1891, two years after that of von Holst.* He speaks of the Democratic party having been dangerously perverted by the new crusade slavery was urging against the enlightenment of the age. "The moral opposition of the world," he reported, "only whetted slavery's desire to overrule that opposition; and it grew tyrannous and exacting in these days, to the verge of rebellion." Of the facts of the case, Schouler offers few, but does maintain that the case became a test case and implies that pro-slavery interests sponsored it. He also reports that Dred was freed after the decision but does not attempt to say by whom. He believes that no agreement between the executive and the justices existed. Taney's opinion is described as mostly *obiter dicta* and characterized in these words: "Elaborate, adroitly put together and cruel, it doomed the African of this age by the standard of three centuries ago . . ." "Taney had many admirable traits of character," conceded Schouler, "but he was

*Hermann von Holst, *The Constitutional and Political History of the United States*, VI (Chicago, 1889), 7. Von Holst's treatment of the case is volume VI, pages 1-46.

*James Schouler, *History of the United States of America under the Constitution*, V (New York, 1891), 373-377.

wanting in the flow of healthy blood, and henceforth to a large fraction of Americans he seemed almost a vampire, hovering in the dim twilight." His conclusion is that "the virus of the views promulgated by this highest tribunal of the land corroded the Southern heart, and the poles of our confederated system diverged more widely."

James Ford Rhodes (publishing in 1892) agrees with von Holst in principle, although he handles individuals with gloves.¹⁰ The history of the case is dismissed as insignificant, and in the Supreme Court consultations little detailed description is attempted. However, the case is introduced as a "grave attempt by the United States Supreme Court" to settle the slavery question, and the reason for the decision on the controversial points is given as pressure, "adroit and considerate," on the southern justices by pro-slavery forces. Taney was won over, says Rhodes, by the "bait held out to his patriotic soul . . . that the court had the power and opportunity of settling the slavery question." Justice Wayne is given full credit for engineering the matter within the court. Rhodes cites as evidence a letter of Alexander H. Stevens, written on January 1, 1857, saying that he understood that the court would declare the Missouri Compromise unconstitutional and that the justices would all read separate opinions. While in fact the court had not even met in conference on the case by January 1, Stevens proved to be so right in his guess (or reporting of rumor) that this letter plays a very significant part in historical treatments to the effect that the case resulted from southern pressure. Of Taney's opinion Rhodes says: "That a man of the years of Taney could construct . . . so plausible an argument was less remarkable than that a humane Christian man could assert publicly such a monstrous theory. Yet such work was demanded by slavery of her votaries . . . That Taney committed a grievous fault is certain. He is not to be blamed for embracing the political notions of John C. Calhoun; his environment gave that shape to his thoughts; but he does deserve censure because he allowed himself to make a political argument, when only a judicial decision was called for . . . As Douglas sinned as a statesman, so Taney sinned as a judge . . . Posterity must condemn Taney as unqualifiedly as Douglas."

Rhodes dismisses Seward's charge of collusion between Buchanan the court with the words: "That either would stoop

¹⁰James Ford Rhodes, *History of the United States from the Compromise of 1850 to the End of the Roosevelt Administration*, II (New York, 1892), 249-271.

from the etiquette of his high office is an idea that may not be entertained for a moment; and we may be sure that with Taney's lofty notions of what belonged to an independent judiciary, he would have no intercourse with the executive that could not brook the light of day."

Von Holst had claimed in the preface to his first volume that his being a foreigner was a definite advantage over Americans trying to write their own history, because he considered it much easier for a foreigner to guard his judgment from being betrayed by his feeling. John W. Burgess took vigorous issue with this in 1897 with the publication of *The Middle Period*. He said in his preface that the time had arrived when the history of the United States from 1816 to 1869 must be undertaken in a "thoroughly impartial spirit." "My opinion," he said, "is . . . that this history must be written by an American and a Northerner, and from the Northern point of view—because an American best understands Americans, after all; because the victorious party can be and will be more liberal, generous, and sympathetic than the vanquished; and because the Northern view is, in the main, the correct view . . . Any interpretation of this period of American history which does not demonstrate to the South its error will be worthless, simply because it will not be true . . ." ¹¹

This "impartial spirit" began his short chapter on the case with the optimistic comment that the time had arrived when the correct story of the Dred Scott case could be told. ¹² He has an account from A. C. Crane, who was a clerk of the lawyer who brought the case into federal circuit court. The case is declared to be a bona fide one, and slaveholding interests are exonerated from the abolitionist charge that they sponsored the case. Dred's lawyer, says Burgess, was a strong anti-slavery man, utterly incapable of collusion with slaveholders. Burgess then gives the first factually accurate account of the case up to the point of control over Dred passing from Mrs. Emerson to John Sanford. Here Burgess has no reference to her marriage but simply says she made over control to a relative. He is convinced that there is not the slightest evidence to indicate that the case was anything but genuine proceedings from beginning to end. Justice Wayne is blamed for dragging in the disputed questions in Burgess's treatment. Of Seward's charge of collusion between Buchanan and Taney, he says:

¹¹John W. Burgess, *The Middle Period, 1817-1858* (New York, 1857), x-xi.

¹²Case is treated on pages 449-459.

"... both Mr. Buchanan and Mr. Taney were men of the highest personal and official integrity, and possessed the most delicate sense of the requirements and proprieties of the great stations which they occupied." Burgess agreed in substance with the preceding three historians that Taney should not have gone beyond declaring the circuit court to have jurisdiction, holding that the overturning of the Missouri Compromise was *obiter dicta*.

J. L. M. Curry, in his little 1895 volume defending the South and state rights, adds nothing to the facts of the Dred Scott case but redicts that "the calm, unprejudiced judgment of the future, remote from the passions and interests of the present, will rightly estimate Taney's fidelity to the Constitution..."¹³

In 1906 there appeared the American Nation Series volume, *Parties and Slavery 1850-1859*, by Theodore Clark Smith.¹⁴ This volume must have contributed more than any other to the picture carried by a whole generation of college graduates and teachers throughout the nation. The treatment begins with an extended discussion of the court and its general prestige in 1855—making no reference to the anti-slavery assault on the court for several years prior to 1855. The facts of the case are sketchily presented and a test-case thesis is offered without explanation. There is no mention of Mrs. Emerson's marriage to Chaffee nor the fact that Sanford was her brother. Chief Justice Taney is named as the one responsible for the decision to have the case reargued, although earlier treatments had convincingly shown Nelson to be responsible. About the decision to bring in the Missouri Compromise, Smith says: "At this point a new influence suddenly appeared. Judge Wayne, of Georgia, was impressed after the recent victory of the Democratic party in the presidential election with the idea that the time was ripe for the supreme court to end the slavery controversy once for all, and he urged the court to make the pending Dred Scott case the opportunity for a decision which should take the whole subject of regulating slavery out of the power of the federal government ... and in the end he prevailed upon the southern justices and Grier, of Pennsylvania." This account continues the charge of *obiter dicta*. Smith considers the imputations of conspiracy among Taney, Buchanan, Douglas, and Pierce a mere assumption, un-

¹³J. L. M. Curry, *The Southern States of the American Union* (New York, 1895), 175.

¹⁴(New York, 1906), 190-208.

supported by any other evidence than the reference by Buchanan, in his inaugural, to the approaching decision. "At the North the impression was universal," says Smith, "that the 'slave power' had gained another victory at the expense of legal impartiality and honor." "The only results of the Dred Scott case," he concludes, "was to damage the prestige of the court in the North and to stimulate a sectional hostility which threatened to recoil upon the heads of the judges themselves."

In 1909 there was published a serious effort at revision of the Dred Scott case stereotype, Elbert W. Ewing's *Legal and Historical Status of the Dred Scott Decision*.¹⁵ Ewing was a lawyer strongly convinced of the value of judicial review of acts of Congress, going so far as to describe judicial review as the sword of popular rule, "the balance wheel preserving the democracy of America from monarchy or plutocracy." Since the Dred Scott case was so generally cited as evidence of the danger of judicial review, Ewing undertook to defend the court. After tracing the state court cases in detail, Ewing makes an unqualified charge that the whole case was entirely a "political probe used by wiley Northerners, aggressive free-soilers, and Republicans." This is based upon the facts that Mrs. Emerson was married to Dr. Chaffee, an abolitionist, and that Sanford was her brother. The idea that Sanford had purchased Dred is called "pure fiction" by Ewing, who says that "all parties connived for the purpose of reaching the court with all questions they wished decided." Dred's emancipation immediately after the decision is considered final proof.

Ewing also denies that Taney was guilty of *obiter dicta*. His thesis is that the supreme court in hearing the case on appeal had to determine the jurisdiction of the lower court. The first step was to review the lower court's own decision about its jurisdiction; but this was not the end of the matter. Although the lower court was held to be in error in its own decision to deny Sanford's plea in abatement, there still existed the possibility that it did properly have jurisdiction on grounds not even mentioned in the plea in abatement. Therefore, holds Ewing, the supreme court had to canvass all the facts of the case to discover whether Dred was a citizen for any reason whatsoever and thus entitled to sue in federal court. In this canvass Taney properly held that Dred's residence in the territory did not free him because the Missouri Compromise allegedly making that territory free was itself unconstitutional. The book concludes: "Having lost the decision which they

¹⁵ (Washington, 1909).

themselves sought from the court . . . the blind storm of repudiation, nullification and denunciation which sprang with a murderous roar from the erstwhile submissionists clearly demonstrated the fixed determination of the North to coerce the South and to continue the subversion of the Federal Government." Mr. Ewing had previously written a work entitled "Northern Rebellion and Southern Secession."

In 1910, the year following publication of Ewing's book, Edward S. Corwin read a paper before the American Historical Association.¹⁶ He makes one insignificant reference to Ewing and comments "I may add that this is the sum total of my indebtedness to the work mentioned." His thesis involves three points: none of Taney's opinion was *obiter dicta*; Taney's reasoning about federal power in the territories was not Calhounist reasoning; and Curtis did not refute Taney on the question of *prima facie* right of Dred to citizenship. As to the matter of *obiter dicta*, Corwin holds, as did Ewing, that Taney had every right to canvass all the facts to determine whether any grounds for Dred's claim to citizenship should appear, and what Taney was doing was examining the question of the lower court from all angles and not dealing with the merits of the case as such. In the second place Corwin challenges the claim by most of the historical treatments that Taney followed Calhoun in his reasoning and shows that Taney based his opinion on completely contrary interpretations to Calhoun's. Finally he shows that Taney and Curtis really disagreed over Negro citizenship not from a point of view of the historical status of Negroes at the time of the adoption of the Constitution, but from the point of view of whether a state government can create a citizen of the United States subsequent to the adoption of the constitution. Corwin holds Taney to be consistent with both judicial decisions and political thinking in 1857 when he held that federal citizenship could not flow from state action but only from federal government action.

By 1911 the last volume of *The Works of James Buchanan* was off the press. Herein was contained the letters of Justices Catron and Grier to Buchanan of February 19 and 23, 1857, revealing that the original decision had been to avoid the controversial questions but that a change had recently resulted from what both Catron and Grier considered the determination of McLean and Curtis to consider those questions. These

¹⁶"The Dred Scott Decision in the Light of Contemporary Legal Doctrines," *American Historical Review*, XVII (1911-12), 52-69.

letters also revealed that Catron asked Buchanan to try to influence Grier and that Buchanan did so successfully. They further informed Buchanan exactly what the decision would be.

John Bach McMaster, the "historian of the people," did not publish his account of the case until 1913, two years after the publication of the pertinent Buchanan letters; but he made no reference to them and presented an account rendered patently erroneous by the letters.¹⁷ He explains Sanford's control of Dred by saying that Mrs. Emerson made Dred over to Sanford by power of attorney to avoid the unpleasantness of appearing in court. Taney is made responsible for the reargument of the case, and Wayne is charged with full responsibility for persuading his colleagues to drag in the Missouri Compromise. The decision to cover the controversial points is set in December, 1856, rather than February, 1857, by McMaster—thus he can cite Alexander H. Stephens' letter of January 1, 1857, as a leakage of information rather than a guess that turned out to be correct in the long run although incorrect when made. He does say that Sanford died and control of Dred came back to the then Mrs. Chaffee, who freed him. All beyond holding the circuit court not to have jurisdiction is classed as *obiter dicta*, with no mention of Corwin's article. Republican press opinion is cited in condemnation of the opinion, but no indication is given that there was any favorable reaction. This famous user of newspapers found only the anti-slavery New York *Tribune* and the Springfield *Republican* "useful" in this case.

If McMaster published too soon after the publication of the Buchanan letters, the same cannot be said for William E. Dodd, whose *Expansion and Conflict* gives a confused account of the case.¹⁸ Although dutifully listing Corwin's article in his bibliographical note for the chapter, he continues to call Taney's opinion a *dictum* and Calhounist reasoning with no mention of Corwin in the text. "The Republicans now began to realize," he says, "that the courts were in alliance with the slave-power, and they were forced to attack the most sacred political institution in the country." There is no hint that such attacks had been going on for a decade before 1857.

The Chronicles of America Series, volume twenty-eight, was published in 1919—years after Ewing's book, Corwin's

¹⁷John Bach McMaster, *A History of the People of the United States from the Revolution to the Civil War*, VIII (New York, 1913), 272-282,

¹⁸(Boston, 1915), 247-248.

article, and the publication of Buchanan's letters. In this popular series, Jesse Macy's *The Anti-Slavery Crusade* presents a truncated account of the case at variance with known facts and remarkably colored.¹⁹ The dating of the first decision to have Nelson write the opinion avoiding the controversial questions is months from the correct time; no mention of McLean and Curtis is made, instead southern justices are blamed exclusively for bringing in the Missouri Compromise; Taney's arguments are twisted; and the Calhounist reasoning notion is repeatedly injected. Of Seward's charge of collusion between Buchanan and the court, Macy states categorically—eight years after publication of the Buchanan letters—"nothing of the sort, however, was ever proven."

James Ford Rhodes published a revised edition of his history in 1920 and took cognizance of the Buchanan letters.²⁰ In his first edition he had said with regard to Seward's charges of collusion between Taney and Buchanan: "That either would stoop from the etiquette of his high office is an idea that may not be entertained for a moment . . ." And he had cited in a footnote Buchanan's indignant denial that Taney told him the decision. In the new edition, in exactly the same number of lines so as not to disturb the pagination, the idea is substituted that Buchanan meddled with the proposed decision in a manner unbefitting the dignity of the President-elect and that Taney also stooped from the etiquette of his high office. The footnote reference to Buchanan's published letters replaces Buchanan's statement of indignation. But this is the only change made. Although the letters cited also charged McLean and Curtis directly with the responsibility for the broad decision, Rhodes leaves Wayne the villain and does not alter any other part of the chapter, including the statement that southern pressure, adroit and considerate, motivated the majority. Even the date of the decision to have Taney write a full opinion is left in December, before Alexander H. Stephen's letter of January 1, despite proof to the contrary in Grier's letter to Buchanan.

When Charles Warren published his monumental study, *The Supreme Court in United States History*, in 1923, the Dred Scott case was treated to a thoroughgoing revision.²¹ Warren is defending the court in general against what he considered untruthful calumny with regard to the case. He advances the

¹⁹Pages 191-202.

²⁰Revised Edition, 1920, volume II, pages 205-227.

²¹(Boston, 1923), III, 1-41.

fictitious sale thesis to explain how Sanford came into control of Dred, and he maintains firmly that the case was a test case contrived by anti-slavery people. Warren makes the following contributions: He shows that abolition assaults on the court had continued for nine years before this case and that this one case cannot be credited with alone causing the disastrous drop in court prestige. He further shows extensive favorable opinion in the North, in addition to a strong northern conservative tone of condemnation of the radical attacks on the court. Nelson is finally placed permanently in his proper place as the prime mover of a reargument. The proper date of the court conference after the second hearing, February, 1857, is established—leaving the January 1 letter of Alexander H. Stephens in its proper perspective as reporting a rumor that was not correct at the time but became correct a month and a half later. But the most important thing is his reprinting in full of the letter of Justice Catron to Buchanan of February 19, 1857, and that of Justice Grier to Buchanan of February 23. On the basis of these he concludes that the responsibility for treatment of the controversial issues of citizenship of Negroes and constitutionality of the Missouri Compromise rests squarely upon McLean and Curtis, and that the majority tried to avoid the questions until forced by the minority insistence to treat them or let opposing arguments go unanswered. Warren cites many legal analyses of Taney's opinion with regard to its being *obiter dicta*, including Corwin's. As to the aftermath of the case, Warren states in a footnote that the fact became known during the trial that the former Mrs. Emerson still owned Dred, and that since she was the wife of an abolitionist it caused some stir. He further reveals that on March 17 Dr. Chaffee published a letter denying that he had any control over Dred, and that in May Mrs. Chaffee and Dr. Chaffee conveyed Dred to Taylor Blow who set him free.

In the same year as Warren's book, Bernard C. Steiner's *Life of Roger Brooke Taney* came off the press.²² This account is long, muddled, and ill-digested, but it has essentially the same data that Warren used. Steiner does add a suggestion that the case began because Dred begged from Taylor Blow and that "it is thought" that Taylor Blow brought Dred to the law firm to see what could be done. The most important point Steiner adds is the idea that Dred was left in trust for the child, Henrietta, and that Mrs. Emerson could not emancipate

²² (Baltimore, 1922), 326-418.

him when she moved to Massachusetts. That she defended at all against Dred's first suit for freedom is attributed to a possible fear that back wages would be charged to the estate. He then maintains that ownership of Dred was transferred to Mrs. Chaffee's brother, John Sanford, to avoid bringing her name into the federal case. No explanation is offered for her presumed ability to transfer Dred to another when she could not free him. A strange oversight occurs in connection with the letters of Catron and Grier to Buchanan. After discussing the letters in full, Steiner cites Rhodes (whom he describes as an unfriendly critic) to prove that there was no conspiracy *behind* the letters. This passage from Rhodes so cited is the one Rhodes wrote before he saw the Buchanan letters and deleted in his second edition—two years before Steiner's book.

Edward Channing's treatment came in 1925, three years after Steiner and Warren, but his brief account shows no important influence by them.²³ It was probably written before he saw Warren's book and was not revised. He states that Dred and his family were in trust and could not be sold or given away, and he maintains that the case became an anti-slavery test case. He brings out a clever appeal for aid to Dred, published in pamphlet form, purporting to be written by Dred and issued on Independence Day of 1854, after the appeal to the Supreme Court. This pamphlet Channing considers further evidence of abolition sponsorship. The startling thing is that he mentions the letters in the Buchanan Papers in a footnote but does not appear to have read them, for he explains the decision to include the controversial questions in this manner: "It is generally supposed that one of the Southern Associate Justices suddenly made up his mind, of his own motion, and induced the Chief Justice and his other Southern brethren to seize the opportunity offered by the Dred Scott case to vindicate the right of the slave owner to take his slave property into any Territory of the United States and that a negro descendant of negroes could never be a citizen of the United States within the meaning of the Constitution. It seems not unlikely that there was a moving force behind this determination stronger than Mr. Justice Wayne, the Southern Associate Justice, and stronger than James Buchanan, the President-elect of the United States. It is possible that the impulse came from Jefferson Davis and the other Southern political leaders in Congress,—but no proof of this has, as yet, appeared."

²³Edward Channing, *A History of the United States*, VI (New York, 1925), 186-197.

Channing then cites Steiner and Warren in the bibliographical note at the end of his chapter as though he accepted their authority.

In 1926 another piece of evidence came to light when Philip Auchampaugh published in the *Tennessee Historical Magazine* letters showing that president-elect Buchanan had originated the correspondence with Justice Catron and that Catron had written Buchanan two letters, February 6 and February 10, 1857, before the ones revealed in the Buchanan correspondence published in 1911.²⁴ These letters establish the facts that no conference on the case had been held by February 6, 1857, and that on February 10 it appeared that no controversial points would be touched in the opinions. This fixes the reversal of the majority and the direction of a full opinion by Taney between February 10 and 19, on which date Catron wrote the letter to Buchanan announcing the final plans.

Charles and Mary Beard (*The Rise of American Civilization*, 1927) give a brief account that is generally accurate, and add a strong emphasis upon the fact that the papers of Justice McLean prove that his presidential ambitions for 1860 played a critical role in broadening the decision.²⁵

In the last volume of Albert J. Beveridge's life of Lincoln, 1928, there is a detailed chapter on the case.²⁶ He is manifestly unfriendly to the abolitionists, and maintains strongly that it was an anti-slavery dummy case. Of Dr. Chaffee's letter to the newspapers in March, 1857, disclaiming control of Dred, Beveridge says it was the lie of a politician and office-holder. He frankly follows Warren throughout, and accepts Corwin's thesis that Taney was not guilty of *obiter dicta*. His one striking addition is the claim that he has found almost no interest in the case in contemporary correspondence of political leaders North or South and that the tempest was all for public consumption—via press, pulpit, and stump. Beveridge makes no effort to offer a rebuttal to the idea that Dred was in trust and could not be sold by Mrs. Emerson. Strangely enough Beveridge gives Warren and Channing as his chief sources, and describes Channing's as a brilliant and reliable account. This is difficult to understand since Channing leaves an entirely different impression from either Warren or Beveridge.

The next year, Frank H. Hodder, in an article in the *Missis-*

²⁴Philip Auchampaugh, "James Buchanan, The Court and the Dred Scott Case," *Tennessee Historical Magazine*, IX (1925-26), 231-240.

²⁵In the one volume edition of 1930, II, 14-19.

²⁶Beveridge, *op. cit.*, IV, 82-159.

Mississippi Valley Historical Review, asserts that the case began because Dred was a shiftless Negro depending on Taylor Blow who instituted the suit without personal, financial, or political reasons.²⁷ Hodder holds that the case was taken into federal court because both attorneys felt that a final decision on the controversial matters would quiet the country. He speaks of a fictitious sale of Dred to Sanford, perhaps to avoid involving Dr. Chaffee's name. Then he not only blames the broad decision on Curtis and McLean but suggests why each insisted on writing broad opinions. It was McLean's presidential ambitions for 1860, and it was Curtis' desire to rehabilitate his reputation in Massachusetts preparatory to resigning from the court for financial reasons and returning to private practice. Hodder considers Curtis's earlier opinions completely inconsistent with his opinion in the Dred Scott case. E. I. McCormac in the *Mississippi Valley Historical Review* adds evidence in 1933 that Campbell was inconsistent in his opinion in the case.

A major biography of Taney by Carl Brent Swisher in 1935 returns to the charge of anti-slavery test case.²⁸ He attributes the federal case entirely to Dr. Chaffee's own interest in getting a judicial decision of the controversial question. Otherwise he generally follows the Warren-Hodder thesis, without being as harsh on Curtis as was Hodder. This account has a dispassionate tone, but it is positive on the abolitionist collusive nature of the case without documentation.

Charles W. Smith, Jr., in a biography of Taney (1936) blames McLean and Curtis fully for broad decision.²⁹ And Francis P. Weisenburger's life of McLean (1837) accepts the idea that McLean was motivated by presidential ambitions.³⁰ This account somewhat cautiously follows Hodder. James G. Randall, in *The Civil War and Reconstruction*, follows Hodder closely, as does Avery Craven in *The Coming of the Civil War*.³¹ Craven, in pursuing his thesis that the decision seemed to contain little to excite public passions, but that once more facts yielded to passions, significantly finds no space in his account even to mention that Buchanan and the justices were in correspondence.

²⁷Frank H. Hodder, "Some Phases of the Dred Scott Case," *Mississippi Valley Historical Review*, XVI (1929-30), 3-22.

²⁸Swisher, *Roger B. Taney* (New York, 1935), 485-523.

²⁹Smith, *Roger B. Taney: Jacksonian Jurist* (Chapel Hill, 1936) 155-176.

³⁰(Columbus, Ohio, 1937), 211-216.

³¹Randall, 148-156; Craven, 381-387.

Writers with a somewhat different interpretive viewpoint continued to find in the case proof of the court's terrible error. Louis B. Boudin in his *Government by Judiciary* (1932) compares the Dred Scott case to the *Ship-Money* case that led to revolution and civil war in England.³² Taney is made the villianous "father of judicial power." The agitated tone of the whole book fortunately warns that special pleading against judicial power is under way. Robert H. Jackson, in 1941, in *The Struggle for Judicial Supremacy*, reverts to the Dred Scott case as a horrible example of what happens when courts get the upper hand. He blames Taney "more than any other" man for the Civil War, and exclaims "One such precedent is enough."³³ And in 1947 Charles P. Curtis, Jr., in a breezy assault on judicial supremacy called *Lions Under the Throne*, also uses the Dred Scott Case as an almost incredible example of legal efforts to solve our most difficult political problem.³⁴ His book is dedicated to "those laymen who know more constitutional law than they think they do, and to those lawyers who know less." But the most interesting angle recently has been in an article by Isabel Paterson in *The Georgia Review* for 1949-50.³⁵ She advances the notion that Taney still secretly harbored the hope that African colonization would be the solution to the American race problem, and that he was trying to see to it that Negroes never gained United States citizenship, so that they could be deported when the proper time arrived. She also suggests that he was trying to quiet the presumed fear of whites that freedmen might become voters. This, says the authoress, would never have been necessary had not the U. S. got off on a wrong track about voting in the first place. Only those who pay the taxes should vote, she maintains. "When one man must pay taxes and another may vote to elect the officials who levy and spend them, the supplier has no control, and the function of the vote is nullified. Government then becomes an agency of extortion." Since this was published in the summer issue of the magazine, it may that she wrote it in the days immediately following March 15. In any event, since the article concluded on this note, it could be possible that Taney was only an incidental springboard in the first place.

No important additional facts in the Dred Scott case were added in the 1930s or the 1940s, but in 1951 Vincent C. Hop-

³² (New York, 1932), II, 1-31.

³³ (New York, 1931), 327.

³⁴ (Boston, 1947), 39-40.

³⁵ "The Riddle of Chief Justice Taney in the Dred Scott Decision," *The Georgia Review*, III (1949-50), 192-203.

kins' book, *Dred Scott's Case*, gave the whole matter a thorough reconsideration.³⁶ Hopkins goes into considerable detail in regard to the background of the case and brings out for the first time that under Missouri law a married woman could not continue to administer the estate for a minor. He also makes clear that Mrs. Emerson's brother, John Sanford, was a surviving executor of Dr. Emerson's will. Therefore, it becomes clear that when Mrs. Emerson married Dr. Chaffee she lost control of the estate held in trust for her daughter, Henrietta, and John Sanford resumed control. Sanford's death at about the time of the Dred Scott decision, according to Hopkins, left no original executor of Dr. Emerson's will; and Dr. Chaffee, Henrietta's stepfather, became the logical one to assume management of her estate. He then transferred Dred and family to Taylor Blow for manumission. This new information raises a clear doubt about the presumed anti-slavery collusion thesis, although it is not proof. The author has an appendix in which he frankly admits not knowing how the case started. Of one thing he feels certain, none of the Blow family were involved at the inception of the case, although they entered the picture soon.

Hopkins's work had been first presented in 1949 as a doctoral dissertation at Columbia University. When he made no significant alterations in the critical aspects of the treatment except his revision of some presumed facts supporting the abolitionist test-case thesis, it might have been expected that the revision of the case was complete. But nothing more nearly approaches an immutable law of historiography than that sooner or later someone will attempt to revise the revisionists. This time it was sooner. Allan Nevins in *The Emergence of Lincoln*, 1950, takes issue with new treatment.³⁷ For one thing he dislikes Hodder's reference to Dred as a "shiftless Negro," preferring to speak of Dred as "infirm and inefficient." But Nevins's principal challenge is leveled at the alleged responsibility of McLean and Curtis for forcing a decision on the controversial issues of citizenship and the Missouri Compromise. He flatly rejects the evidence contained in the letters to Buchanan from both Catron and Grier, and argues:

It is not necessary . . . to question the veracity of these men; we may merely question their accuracy. While we must not be dogmatic in passing upon this murky ques-

³⁶*Op. cit.*

³⁷ (New York, 1950). Treated in volume I, 84-118, and in an appendix in volume II, 473-477.

tion of responsibility, it would seem that they give a partial and partisan view of a complex transaction.

"Admittedly, when the judges began considering the case in conference, a series of angry discussions ensued . . . As the debate became heated, judges on both sides doubtless manifested a desire to set down certain views on paper. Justice McLean would tell Wayne that if he expressed his erroneous ideas publicly, McLean would voice contrary opinions; Wayne and Daniel would retort in kind. Emerging from such a debate, when Catron and Grier wrote to Buchanan they would naturally describe the dissentients as the provocative members, just as McLean would naturally place the blame at a Southern door. We can go further; we can imagine several Southern judges discussing the case after a heated conference, agreeing that the views of Curtis and McLean were pernicious, and coming to regard the pair as trouble-makers, even if they wished to voice their conclusions only in private. In short, the letters of Catron and Grier can be explained simply as a distortion of the painful controversy raging.

Nevins dismisses McLean's presidential ambitions as ridiculous because in 1860 McLean would have been seventy-five and "within a year of his grave." This in the face of documentary proof that McLean did hope for the nomination and did try to get it in 1860. Nevins also makes the statement that the first weeks of a new Democratic administration were no time for a Republican to be thinking of political chances! As for Curtis, Nevins says that he was a conservative, old-line Whig who would not have desired to agitate the situation; that it is not known that he intended to resign from the bench when he wrote his opinion; that his reputation as a lawyer was so great that he needed no rehabilitation at home before returning to practice; and that his life-long integrity belies the charge in the first place.

The first generally agreed upon account of the Dred Scott case was established by the nationalist school: that it was a deliberate and aggressive move on the part of the slavocracy using the court as a weapon against the new Republican party; that the whole case was probably a test case sponsored by the pro-slavery interests; and that the opinion of the court declaring the Missouri Compromise unconstitutional was *obiter dictum*, unnecessarily and with political intent added to the proper decision. All agreed that Seward's charges of collusion

between executive and court were unfounded and almost certainly untrue. Burgess did challenge the pro-slavery test nature of the case in its origin, but he retained the slavocracy theory of the broadening of the opinions gratuitously to deny Congress control over slavery in the territories. This picture stood virtually unchallenged in 1906 when the American Nation Series volume by Smith incorporated it without reservation. A southerner, defending the South in general, forlornly predicted that the future would vindicate Taney; but he found no comfort in the histories of his day.

Serious revision began in 1909 when a lawyer, defending the South, the court, and the doctrine of judicial review, concluded that the case was entirely a moot one sponsored by anti-slavery interests and that Taney was not guilty of *obiter dicta*. The following year a student of constitutional law buttressed the defense of Taney against charges of *obiter dicta*. And the next year the publication of pertinent letters in the Buchanan papers threw new light on the reasons for including controversial points in the opinions and the relations between the executive and the justices. The revision required by these letters waited for a decade, being entirely or substantially ignored by McMaster, Macy in the *Chronicles of America* volume, and Rhodes in his 1920 revision.

In the 1920s, when the whole subject of the sectional controversy and the Reconstruction period was under extensive revision, the revisionist interpretation of the Dred Scott case was established—by a friendly student of the Supreme Court and a friendly biographer of Taney. Beveridge's revisionist work on Lincoln and a second biography of Taney in 1935 concurred, despite an anachronistic account by Channing in 1925. McLean's biographer concurred in 1937, and it appeared settled that the case was a test case sponsored by or at least participated in by abolitionist interests, that McLean and Curtis were to blame for the inclusion of the troublesome points, and that the slavocracy conspiracy idea was relegated to the file of used-up myths. Craven, in pursuing his general thesis that the coming of the Civil War is explained by excess emotionalization of insignificant events and that the Dred Scott decision contained little to excite public passion, felt free to omit any reference to the correspondence between Buchanan and the justices.

Of course, three New Deal-Fair-Deal Era critics of the role of the Supreme Court in politics still felt no restraint upon their citing the Dred Scott case as a horrible example. But

the current serious effort at re-revision comes from the pen of a historian who considers the fundamental cause of the Civil War to have been not state rights, nor economic grievances, nor hysteric excitement, nor slavery alone—but “slavery *and* the future position of the Negro race in North America.”^{as}

Four years hence the centennial of the decision will have come. If the definitive account is to be written we still must establish whether the case began or became a test case, who must share the responsibility within the court for the broadening of the decision, and just exactly when the Chaffee's recovered control of the Dred Scott family. Meanwhile, the Dred Scott Case remains so conveniently malleable that you must not be too surprised should you find it deftly moulded as an illustrative example in almost anybody's pet theory.

^{as}Nevins, *op. cit.*

CONSTITUTION

I

The name of this organization shall be The South Carolina Historical Association.

II

The objects of the Association shall be to promote historical studies in the State of South Carolina; to bring about a closer relationship among persons living in this State who are interested in history; and to encourage the preservation of historical records.

III

Any person approved by the executive committee may become a member by paying \$4.00 and after the first year may continue a member by paying an annual fee of \$4.00.

IV

The officers shall be a president, a vice-president, and a secretary and treasurer who shall be elected by ballot at each regular annual meeting. A list of nominations shall be presented by the executive committee, but nominations from the floor may be made. The officers shall have the duties and perform the functions customarily attached to their respective offices with such others as may from time to time be prescribed.

V

There shall be an executive committee made up of the officers and of two other members elected by ballot for a term of three years; at the first election; however, one shall be elected for two years. Vacancies shall be filled by election in the same manner at the annual meeting following their occurrence. Until such time they shall be filled by appointment by the president. The duties of the executive committee shall be to fix the date and place of the annual meeting, to attend to the publication of the proceedings of the Association, to prepare a program for the annual meeting, to prepare a list of nominations for the officers of the Association as provided in Article IV, and such other duties as may be from time to time assigned to them by the Association. There shall be such other committees as the president may appoint, or be instructed to appoint, by resolution of the Association.

VI

There shall be an annual meeting of the Association at the time and place appointed by the executive committee.

VII

The Association shall publish annually its proceedings to be known as *The Proceedings of the South Carolina Association*. It shall contain the constitution, by-laws, and minutes of the annual meeting

together with such papers and documents selected by the executive committee as may be published without incurring a deficit. It is understood that all papers read at the annual meeting become the property of the Association except as otherwise may be provided by the executive committee. The executive committee shall annually elect an editor of the *Proceedings*. He shall have authority to appoint an associate editor and shall be a member of the executive committee, but without vote.

VIII

This constitution may be amended by a two-thirds vote of the members present at the annual business meeting.

MEMBERS OF THE ASSOCIATION

Alexander, Thomas B.	Georgia Teachers College, Collegeboro, Ga.
Anger, Charles L.	The Citadel, Charleston, S. C.
Baker, Mary Neel	Greenwood High School, Greenwood, S. C.
Barnwell, R. W., Jr.	Warner Robins, Ga.
Beckwith, Mrs. Mildred	Winthrop College, Rock Hill, S. C.
Blake, Eugene H.	Greenwood, S. C.
Blossom, Thomas	The Citadel, Charleston, S. C.
Bolen, C. Waldron	Clemson College, Clemson, S. C.
Boyd, Ruth	Greenville High School, Greenville, S. C.
Brewster, Lawrence F.	East Carolina Teachers College, Greenville, N. C.
Brown, Marshall W.	Presbyterian College, Clinton, S. C.
Calcott, W. H.	University of South Carolina, Columbia, S. C.
Carlisle, Charles H.	Erskine College, Due West, S. C.
Carpenter, Charles Harold	Clemson College, Clemson, S. C.
Cauthen, Charles E.	Wofford College, Spartanburg, S. C.
Childs, Mrs. A. R.	University of South Carolina, Columbia, S. C.
Cole, David	Lander College, Greenwood, S. C.
Copeland, J. Isaac	George Peabody College, Nashville, Tenn.
Crowell, N. H.	Newberry College, Newberry, S. C.
Daniel, Lucia	University High School, Columbia, S. C.
Davidson, Elizabeth H.	Coker College, Hartsville, S. C.
Duckett, Alvin L.	Winthrop College, Rock Hill, S. C.
Easterby, J. H.	South Carolina Historical Commission, Columbia, S. C.
Epting, Carl L.	Clemson College, Clemson, S. C.
Ferrell, C. M.	University of South Carolina, Columbia, S. C.
Fike, Claude	College of Charleston, Charleston, S. C.
Fortunato, Leonard H.	The Citadel, Charleston, S. C.
Galloway, Helen Brice	Greenville High School, Greenville, S. C.
Gilpatrick, D. H.	Furman University, Greenville, S. C.
Gregorie, Anne K.	Mt. Pleasant, S. C.
Hagan, Helen	Coker College, Hartsville, S. C.
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Lander, William T.	Wofford College, Spartanburg, S. C.
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